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ABSTRACT

Volume 2 of a two-volume series, this document is designed to facilitate research on school finance reform in New Jersey, specifically the Robinson v. Cahill decisions. The purpose of this effort is two-fold: to facilitate access to legal documents submitted during the four-year evolution of the Robinson case and to augment efforts to identify the legal doctrine and interpretations that the case and relevant commentary have produced. Following a brief introduction on the background of the school finance reform movement nationally and in New Jersey, part 1 summarizes the Robinson v. Cahill litigation. Part 2 contains abstracts of most of the briefs submitted in the case. Part 3 is an annotated bibliography of legal periodicals that make explicit reference to the Robinson decision. Part 4 contains two diagrams that sketch the complexity of the four-year litigation. (Author/JM)

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DOCUMENTATION OF THE CRISIS IN PUBLIC EDUCATION IN NEW JERSEY: 1975-1976

Volume II
A Compendium of Legal Documentation: Robinson v. Cahill

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PREFACE

In July, 1976, the New Jersey school system was shut down per order of the New Jersey Supreme Court. This action culminated the state's four-year effort to reform its method of financing public education and resulted in the adoption of a statewide income tax.

This document is designed as a tool to facilitate research on school finance reform in New Jersey, specifically, the Robinson v. Cahill decisions. The purpose of this effort is two-fold: to facilitate access to legal documents submitted during the four-year evolution of the Robinson case and to augment efforts to identify the legal doctrine and its interpretations which the case and relevant commentary have produced.

This monograph includes a brief introduction which sketches the background of the school finance reform movement nationally as well as the New Jersey experience in particular. The remainder of the document includes four parts: Part I is a summary of the Robinson v. Cahill litigation beginning with the trial court decision by Judge Botter in January, 1972 and concluding with the last of six New Jersey Supreme Court decisions in May, 1976. Part II contains abstracts of most of the briefs submitted in this case. Part III is an annotated bibliography of legal periodicals which make explicit reference to the Robinson decision. Part IV contains two diagrams designed to simply sketch the complexity of the four-year Robinson v. Cahill litigation. Diagram I is a flow chart which displays the sequence in which the various issues were raised as well as the parties

involved. Diagram II is a matrix which relates particular positions taken on the various issues with specific parties.

The school finance reform process in New Jersey was a complex political process which involved fundamental constitutional issues. Following its first decision (there were six, Robinson I - Robinson VI), in which the N.J. Supreme Court declared the existing method of financing public education in New Jersey unconstitutional, the court found itself in a position of having to confront legislative non-decision regarding an alternative financing arrangement as well as having to assimilate and act on wide-ranging, complex and conflicting views as to the appropriate approach to defining and attaining equal educational opportunity. The decision summary (Part I) outlines the actions of the court in chronological order and makes specific reference to the briefs which were submitted at each stage of the litigation. There is no attempt, however, to analyze the decision processes of the New Jersey Supreme Court nor to identify the arguments which the court found persuasive at each decision point. This document is merely a tool which will help the researcher draw his or her own conclusions as to the court's actions and the relative influence of the diverse and complex arguments offered during the course of the litigation.

This monograph is one product of a study funded by the National Institute of Education: "Documentation of the Crisis in Public Education in New Jersey, 1975-76." The study attempts to identify,

gather, report and analyze information on the decision processes and events involved in the effort to reform the method of funding public education in New Jersey. This legal compendium is a product of the legal research involved in this larger study.

The authors are grateful to the National Institute of Education for their support in this undertaking. The Office of the Clerk of the N.J. Supreme Court was most cooperative in making the briefs available for our reading and we thank them. The assistance provided by the Division of Research, Planning and Evaluation of the New Jersey Department of Education is also very much appreciated.

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INTRODUCTION

Robinson v. Cahill is one manifestation of a national concern over equal educational opportunity and the inequities imposed by the traditional approach to financing public education in this country. The concern for equality in the delivery of educational services surfaced with the U.S. Supreme Court's decision in Brown v. Board of Education.[1] The concept of equal educational opportunity has generated considerable debate within professional and legal circles and to this day has defied specific and meaningful definition. The ambiguity over this basic concept has resulted in political conflict over a number of critical educational issues concerned with equity, most notably integration and school finance.

In the school finance cases, state courts have taken the initiative in establishing more equitable systems of financing public education. The courts have construed equal educational opportunity to be related to wealth. They have assumed that there is a nexus between the cost of providing education and the quality of that education. The courts' opinions spend considerable time documenting the disparities in per-pupil expenditure which exist between low-wealth and high-wealth districts. Recognizing that education finance

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[1] Brown et. al. v. Board of Education at Topeka et. al., 347 U.S. 483 (1954): 493.

is based on community wealth, it is argued that low wealth school districts do not have the resources needed to educate the "hard to educate" students.

In 1970, in Private Wealth and Public Education, Professors Coon, Clune, and Sugarman articulated the "fiscal neutrality principle" which has served as a rationale to the "flurry" of court decisions which followed the publication of their book.[2] This standard essentially held that "the quality of education may not be a function of wealth other than the wealth of the state as a whole."[3] Despite a number of criticisms, especially with regard to its implications for central cities, this principle and the legal arguments that support it, "were eagerly seized upon by lawyers throughout the country who were seeking to overturn their states' systems of school finance."[4]

In 1971, the California Supreme Court, in Serrano v. Priest,[5] relying upon the fiscal neutrality principle, ruled that the state's plan for financing public schools violated the equal protection clause

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[2] John E. Coon, William H. Clune, and Stephen D. Sugarman, Private Wealth and Public Education (Cambridge, Mass.: Harvard University Press, 1970).

[3] Ibid., 2.

[4] Betsy Levin, Foreward to "Future Directions for School Finance Reform," Law and Contemporary Problems 38 (Winter/Spring 1973): 295.

[5] 5 Cal. 3d 584, 487 p.2d 1241, 96 Cal. Rptr. 601 (1971).

of both the federal and state constitutions. The court noted that the wealth-based discrimination resulting from use of the property tax was constitutionally suspect and that education was a fundamental interest. This was followed by a "tidal wave" of school finance litigation in other states until the U.S. Supreme Court announced its decision in San Antonio Independent School District v. Rodriguez.[6]

In Rodriguez, the U.S. Supreme Court provided a serious blow to the emerging school finance reform movement.[7] Modifying the commitment to equal educational opportunity made in the Brown decision, the Court essentially held that equal educational opportunity was not in itself a right protected by the U.S. Constitution. This decision resulted in a shift of policy arenas as the reformers began to direct their attention to the states, specifically the state courts.

The New Jersey Supreme Court has a reputation for being an activist court which has not been afraid to render innovative policy decisions. The court adhered to this tradition playing a critical role in the school reform process. In a series of six decisions, the court continuously prodded the state policy-making

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[6] 411 U.S. 28, (1973).

[7] Between the time the California Supreme Court handed down its opinion in Serrano and the Rodriguez decision in March, 1973, "some fifty-two actions were filed in thirty-one states" including New Jersey. See Levin, op. cit., p. 295.

machinery to deal with the concept of equal educational opportunity and the need for a new state revenue source.

On January 19, 1972, Judge Botter of the New Jersey Superior Court, relying upon the fiscal neutrality principle and the precedent established in Serrano, ruled that education is a fundamental right and that the existing inequities among low-wealth and high-wealth school districts violated the equal protection clause of the state and federal constitutions. Noting that higher expenditures do not necessarily make for a "better" education, the court concluded that differential resources and spending adversely affect the quality of education provided by poor districts in violation of the education clause of the state constitution. The court reluctantly concluded that "the only evidence offered in the case (did) show correlation between educational expenditures and pupil achievement over and above the influence of family and other environmental factors." The court emphasized that the "wide disparities" violated the equal protection rights of both children and taxpayers.[8] In concluding, Judge Botter ordered the state to: (1) devise a tax program that would equalize the tax burden, and (2) enact an education program consistent with the education clause.

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[8] For an explication of the extent of the disparities, see the opinions of the court. As an example using 1971 data, the wealth behind each student in the wealthy suburb of Eaglewood Cliffs was $162,337 while the wealth behind a student in Newark was $19,680. See David Listokin, Educational Financing Reform, (New Brunswick, New Jersey: Center for Urban Policy Research, Rutgers University, 1974).

The New Jersey Supreme Court issued its first opinion just weeks after the Rodriguez decision in 1973.[9] Consistent with the direction suggested by the U.S. Supreme Court, the court rejected the "fundamental right" and compelling state interest" arguments and rebuffed the federal and state equal protection of the laws argument for both children and taxpayers. Accepting the finding of fact by the lower court in terms of wide disparities among school districts, the court focused its opinion on the education clause of the state constitution which mandates that:

> The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years.[10]

The court recognized "that there is a significant connection between the sums expended and the quality of the educational opportunity."[11] The court did not rule out the use of local taxation and concluded that "The Constitution's guarantee must be understood to embrace that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market."[12] The

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[9] 62 N.J. 473, 303 A. 2d (1973).

[10] 1875 Amendment to Article IV, Section 7, Clause 6 of 1844 New Jersey Constitution (Emphasis added).

[11] 62 N.J. at 516.

[12] 62 N.J. at 515.

court emphasized that it is the state's obligation to maintain a thorough and efficient system and if a district fell short of that requirement, the state must intervene to restore it to a level consistent with the "thorough and efficient" standard.

The court based its ruling on a clause which it recognized had never been clearly defined and ordered the legislature to define "thorough and efficient" and to devise a system of education consistent with that definition.

The opinion also addressed the finance issue in some detail. Having declared the existing financing scheme unconstitutional even if fully funded,[13] the court ordered the legislature to provide funds sufficient for the implementation of a newly-defined "thorough and efficient" public school system.

The Robinson v. Cahill decision and the issues it generated - the income tax and defining "thorough and efficient" - preoccupied state policy-makers and educators for a four year period. As noted previously, the N.J. Supreme Court rendered six decisions, the last one resulting in the closing of the state's public schools in July, 1976. Nearly 100 briefs were submitted during the course of

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[13] The Court declared the Bateman plan even if fully funded to be unconstitutional. For a discussion of the distribution formula contained within Bateman and the funding and distribution options which were considered, see David Listokin, Educational Financing Reform: A Guide to Legislative Action (New Brunswick, N.J.: Center for Urban Policy Research, Rutgers University, 1974).

the litigation. They addressed a number of issues implicit in the ambiguity over equal educational opportunity, the constitutionality of the court's involvement, and alternative remedies which could be imposed in the event that the legislature did not fund the public education act which it had passed in September, 1975.

This document is designed to facilitate access to the large body of legal documentation associated with this litigation and to identify the commentary on the legal doctrine which has emerged.

PART I

SUMMARY OF ROBINSON V. CAHILL DECISIONS*

* Part IV contains two diagrams which provide an overview of the Robinson decisions: Diagram I is a flow chart which displays the issues raised in each of the decisions. Diagram II is a matrix which relates position on issues with specific parties involved in the litigation. See pp. 75-76.

I. Robinson v. Cahill, 118 N.J. Super, 223, 287 A.2d 187 (January 19, 1972) supplemental opinion, 119 N.J. Super. 40, 289 A.2d 569 (Judge Botter).

A large portion of Judge Botter's opinion was involved with the fact-finding process. The first question he asked was whether fiscal disparities did exist in New Jersey. He concluded that there were wide disparities and a direct relationship between valuations and expenditures per pupil. There was also an inverse relationship between expenditures and local tax rates. Districts with high valuations spent more per pupil but had lower tax rates.

The second question involved a determination as to the effect of expenditure disparities on educational quality. Noting that greater expenditures do not necessarily mean "better" education, the court did conclude that differential resources and spending adversely affected the quality of education provided by poor districts. The court noted that "The only evidence offered in the case [did] show correlation between educational expenditures and pupil achievement over and above the influence of family and other environmental factors."

The court then asked whether the State School Incentive Equalization Civil Law (Bateman Act) could eliminate the disparities. Equalization occurred only up to the level of the statutorily guaranteed equalized valuations. A "basic" district received $33,000 of equalized valuation per pupil despite

the fact that the state average valuation was $41,026. Nor did the Bateman Act provide for pre-funding to facilitate the movement of poor, "basic" districts toward "comprehensive" district status. This prevented the poor districts from qualifying for a higher level of state aid. The court further concluded that the minimum support and save-harmless aid provisions were inconsistent with equalization because they provided state aid to districts which could not qualify for equalization aid and at the same time provided nothing additional to poor districts whose aid was decreased by the amount of minimum support and save-harmless. Finally, the Act did not compensate for municipal overburden.

Judge Botter examined alternative legal theories which could be applied to the unredressed disparities. Using the education clause in the state Constitution, the court concluded that a thorough education was not being provided. The state was obligated to provide a thorough education for all pupils wherever located. Nevertheless, this obligation did not require the state to fund education completely out of its general revenues. After finding that a thorough education (complete with attention to detail) was not being provided, the court held that the Bateman Act would afford sufficient funding for a thorough education only if fully funded. The Act was constitutional because the judiciary would not invalidate an act in the complex area of education only because

it had not been fully funded. Instead, the court struck down the minimum support and save-harmless provisions on the ground that it served no legitimate legislative purpose.

Despite finding the Bateman Act partially constitutional under the education clause, the court found the Act, as a whole, violated both the federal and state equal protection provisions. The court concluded that providing a thorough education is a statewide purpose and in raising funds for that purpose, the equality provisions preclude taxing the same class of property at different rates.

> The State must finance a 'thorough and efficient' system of education out of State revenues raised by levies imposed uniformly on taxpayers of the same class.

The court emphasized that the Constitution required funding only at the "thorough and efficient" level. Finally, a fully funded Act could provide a thorough and efficient education but the Act was unconstitutional in whole because of its unequal treatment of taxpayers in raising that level of funding.

The court cited two state goals: to raise education to a thorough and efficient level in all districts where deficiencies exist, and, to equalize the tax burden in support of state purposes. To reach these goals, the court required the state to "finance a thorough and efficient system of education out of state revenues raised by levies imposed uniformly on taxpayers of the same class." The court recognized that the legislature would need

time to act. However, the court emphasized that the continued operation of the school system and of the pertinent state statutes would be tied to the states progress toward realizing the above goals.

The decision was appealed to the Supreme Court of New Jersey which certified the question for review because of the important constitutional issues raised. Briefs were filed by:[1]

A. Defendants-Petitioners
B. Plaintiffs-Respondents
C. Amici Curiae:
   1) NAACP-ACLU;
   2) N.J. State Office of Legal Services;
   3) City of Clifton;
   4) Permanent Commission on State School Support.

II. Robinson v. Cahill, 62 N.J. 473, 303 A.2d 273 (April 3, 1973) Affirmed as modified, cert. denied, 414 U.S. 976 (1973), (Robinson I).

The N.J. Supreme Court paid little attention to the factual issues addressed by the trial court. The court accepted the trail court's findings of fact as to the existence of fiscal disparities and held that it was "clear ... that State aid [did] not operate substantially to equalize the sums available per pupil." The court simply concluded that the quality of educational opportunity did depend in substantial measure upon the number of dollars invested.

This decision specifically addressed the legal theories applicable to the case. The court agreed that the system was

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[1] See abstracts of briefs in Part II, pp. 28-30.

unconstitutional, but for different reasons than those accepted by the trial court. The Bateman Act was struck down because it bore "no apparent relation to the mandate for equal educational opportunity" contained in the education clause.

The Supreme Court did, however, reverse the trial court's determination of unconstitutionality under the equal protection provisions. The court could find no federal constitutional flaws--citing Rodriguez. The court said that striking down a school finance statute because of its reliance on disparate local tax resources would go "beyond the educational scene and [implicate] the entire concept of local government with local fiscal responsibility." Also, the Federal Constitution should not supply "single solutions by which all the states are bound." Finally, the court concluded that

> The equal protection clause may be unmanageable if it is called upon to supply categorical answers in the vast area of human needs, choosing those which must be met and a single basis upon which the State must act.

The court held that the State equal protection clause is not coextensive with the federal provision. The court gave several reasons why the case should not be decided upon state equal protection grounds. One reason was the rigidity of an equal protection solution. The court adhered to the proposition that "the equal protection clause dictated

statewide uniformity" and construed that to mean that if funds were raised by local taxation in a way which permitted a different dollar expenditure per affected resident, the program was invalid as to the beneficiaries unless a State aid program filled in the gap. This would create a requirement of equal per pupil expenditures--something the court already rejected in an earlier case.

The court cited the difficulty of keeping an equal protection solution within manageable limits. The court saw no way to limit the holding to education. The lower court's determination that education was a fundamental right was rejected. Using the compelling state interest test, the court found neither a suspect classification nor a basis for treating education as a fundamental right.

The court decided that the tax uniformity clause was not directly relevant to the subject of public education. However, it did permit the delegation of a state function to local governments and financing based on local taxation. The clause did require that:

> if the State decided to handle a service at State level and to do so on the basis of a property tax, it must tax all taxable property in the State rather than only property in a part of the State....

Thus, the Supreme Court rejected arguments under every explicit "equality" provision of the state constitution.

The court proceeded to invalidate New Jersey's method of financing public school education under the state constitution's education clause. The court concluded that the education clause required the state to provide all its children with an equal opportunity to attain a thorough and efficient education. The Bateman Act, not being visibly designed for the discharge of that mandate, was held unconstitutional.

The education clause imposed ultimate responsibility for financing education upon the state. If the state chose to act through local governments, it would have to compel school districts to meet the constitutional command and compensate for local failures.

The court offered several guidelines for the legislative determination of the content of "thorough and efficient:" First, the meaning was relative and could change with time; second, it should be calibrated against the demands of the post-schooling world; and third, it need not be the best possible education.

The court held that each child is entitled to an equal educational opportunity. The quality of educational opportunity guaranteed is that which "is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market." The court avoided the rigidities of an input or output standard. However, in examining the relationship of school financing to a thorough and efficient education,

dollar input was the main criterion used. The court tested the validity of the Bateman Act by this criterion of dollar input and found that it was not consistent with the constitutional mandate. In fact, even a fully funded Act would not satisfy the obligation of the State.

The court agreed that relief must be prospective and set no deadline for achieving reform of the tax funding for public education. However, the court did say it would hear oral arugments to determine what form of remedial action should be taken.

In response to this inquiry by the Supreme Court, briefs were filed by:[2]

A. Plaintiffs-Petitioners;
B. Defendants-Appellants;
C. Amici Curiae:
   1) NAACP-ACLU
   2) City of Clifton

III. Robinson v. Cahill, 63 N.J. 196, 306 A.2d 65 (June 19, 1973) supplementing 62 N.J. 473, 303 A.2d (1973), (Robinson II).

The court held that the present statutory scheme would not be disturbed unless the Legislature failed to enact legislation designed to meet the constitutional mandate by December 31, 1974, to be effective no later than July 1, 1975. The Court retained jurisdiction whereby any party could move for appropriate relief, before or after Decempber 31, 1974, if new circumstances warranted.

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[2] See abstracts of briefs contained on pp. 31-32.

IV. Robinson v. Cahill, 67 N.J. 35, A.2d (January 23, 1975) modifying order of 63 N.J. 196, 306 A.2d 65 (1973), (Robinson III).

No new legislation was enacted and the matter returned to the Supreme Court.

The December 31, 1974 deadline was removed and no new deadline was set. To avoid chaos in many school districts, the court refrained from acting but agreed to hear arguments as to what steps the court should take to implement the constitutional mandate for the 1976-77 school year. A target date of October 1 was set and arguments were to be confined to the following subjects:

1) The method of addressing the definition of a T&E system of free public schools and of translation of that definition into financial terms;

2) The extent of the remedial power of the court;

3) The extent and manner in which the court should exercise such power; and

4) Whether the court should appoint a special master to hear the views of the parties.

Justice Pashman filed a dissenting opinion arguing that the legislature had been given ample opportunity to meet the constitutional mandate. He concluded that while a certain amount of confusion and dissatisfaction might result from a grant of affirmative relief, the Court, nonetheless, had a constitutional obligation to so act.

Briefs were filed by:[3]

A. Plaintiffs-Respondents;
B. Defendants-Petitioners:
   1) Attorney General;
   2) Governor Brendon T. Byrne;
   3) President of the Senate Assembly and the General Assembly;
C. Amici Curiae:
   1) NAACP-ACLU;
   2) N.J. Education Association;
   3) N.J. Education Reform Project of the Greater Newark Urban Coalition;
   4) N.J. School Boards Association;
   5) City of Newark;
   6) Morris School District;
   7) Board of Education of the Township of Lyndhurst;
   8) Mayor of the Borough of Carlstadt;
   9) Board of Education of Boroughs of Avon-by-the-Sea and Belmar;
   10) Board of Education of the Township of Mendham;
   11) Township of Livingston and Boards of Education of School Districts of Montclair, Berkeley Heights, Chatham Township, New Providence, Rumson, Sandyston-Walpack, Summit and Millbern;
   12) Pleasantville Taxpayers Association and Taxpayers Association of Weymouth, Inc.

This stage in the litigation is marked by a fragmentation of the parties. Respondents and amici curiae allied with the Respondents' cause proposed different definitions of a T&E system of public education and offered varying views as to the extent of the court's power. The Defendents also separated with the houses of the legislature offering individual arguments and the Governor another point of view. Several new amici curiae were also granted permission to participate in the litigation.

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[3] See abstracts of briefs contained on pp. 32-39.

V. Robinson V. Cahill, 67 N.J. 333, 339 A.2d 193 (May 23, 1975), (Robinson IV).

"The Court has now come face to face with a constitutional exigency involving, on a level of plain stark and unmistakable reality, the constitutional obligation of the Court to act."

The court decided to impose a provisional remedy for the 1976-77 school year, should the government fail to devise and enact a constitutional system of education in time. The court stated its reluctance to intrude into the legislative process and spoke of the court's function as one of appraising "compliance with the constitution, not to legislate an educational system, at least if that can in any way be avoided."

The distribution of certain State funds (amounting to $300 million) to poor districts was ordered in accordance with the Governor's plan.

The court then dealt with a challenge on behalf of the Senate that the judicial power did not encompass within it the power to redistribute funds appropriated by law, even if in furtherance of a constitutional objective. In response to the argument that under the literal terms of the Education Clause, it is the Legislature alone which has the power to provide for a system of affirmative judicial action in such areas. Because of a legislative default it was the court's duty to act.

In response to the argument that it is the legislature which appropriates money, the court noted that the funds will

be appropriated by the legislature and they will still be used for educational purposes. In any case, the mandate of the Education Clause controls, in these circumstances, when there is a conflict with the Appropriations Clause.

The court reacted to the claim that they were violating the doctrine of separation of powers and said:

> This Court, as the designated last-resort guarantee of the Constitution's command, possesses and must use power equal to its responsibility. Sometimes, unavoidably, incident thereto and in response to a constitutional mandate, the Court must act, even in a sense seeming to encroach, in areas otherwise reserved to other branches of government.

Justice Pashman concurred in part but objected to the scope of the relief ordered by the Court. The remedy should have been both broader in scope and calculated to more directly implement the mandate of the education clause. The case should have been remanded, in part, to the State Board of Education for formulation of statewide standards for a thorough and efficient educational system. Moreover, the problem of municipal overburden warranted careful consideration.

Justices Mountain and Clifford also dissented with respect to the scope of the court-ordered relief. However, the Justices were concerned more with the usurpation of legislative prerogative by the Court. The separation of powers doctrine forbids any court-ordered reallocation of appropriated funds. The preferred remedy involved the Commissioner of Education

taking whatever steps necessary to define and implement a thorough and efficient educational program.

The Court retained jurisdiction and made its order of May 23, 1975 contingent upon the eventuation of timely and constitutionally appropriate legislative action. The legislature enacted the Public School Education Act of 1975 and the Supreme Court decided to rule upon its constitutionality.

Briefs were filed by:[4]

A. Plaintiffs-Respondents;
B. Defendants-Petitioners:
   1) Attorney General;
   2) Governor Brendon T. Byrne;
   3) President of the Senate and the N.J. Senate;
   4) Speaker of the General Assembly and the General Assembly;
C. Amici Curiae:
   1) NAACP-ACLU;
   2) N.J. Education Association;
   3) N.J. Education Reform Project of the Greater Newark Urban Coalition;
   4) N.J. School Boards Association;
   5) Mayor of the Borough of Carlstadt;
   6) Township of Livingston and Boards of Education of School Districts of Montclair, Berkeley Heights, Chatham Township, New Providence, Rumson, Sandyston-Walpack, Summit and Millburn.

VI. Robinson v. Cahill, 69 N.J. 449, 355 A.2d 129 (January 30, 1976) per curiam, (Robinson V).

In a per curian decision, with many separate opinions, the court held that the Public School Education Act of 1975,

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[4] See abstracts of briefs on pp. 39-44.

which was intended to meet the State constitutional mandate of providing all public school pupils with a "thorough and efficient" education, was constitutional on its face. The Act properly spells out the "thorough and efficient" mandate, provides for necessary monitoring of educational standards, and affords sufficient financial support assuming it is fully funded. To meet the constitutional problem resulting from financial public education through reliance primarily on local property taxes, the Act requires the State to pay each school district "equalization support" designed to eliminate gross disparities between districts in per pupil expenditure and tax resources.

The court vacated the order of May 23, 1975 requiring the distribution of certain school aid funds to poor districts for the 1976-77 school year. The court retained jurisdiction to order appropriate relief if the legislature failed to fully fund the Act by April 6, 1976.

Chief Justice Hughes expressed strong reservations with regard to several aspects of the 1975 Act but felt that, on the whole, the Act, if fully funded, and with proper implementing regulations, met the constitutional requirement.

Justice Pashman argued in dissent that the case be remanded to the trial court for the development of a more complete factual record regarding the operational effect and constitutionality

of the 1975 Act. Justice Pashman also questioned the constitutionality of several provisions of the Act including minimum support and save harmless aid. The Justice proposed that, if necessary, an average state school property tax rate could be a fair and equitable formula for interim relief.

Judge Conford reasoned that as a matter of sound public policy, the court should "determine the extent to which the 1975 Act did or did not meet the constitutional requisite, definitively indicate how it can be repaired legislatively to the extent that it does not, and apply firm and legally acceptable remedies to assure .... the implementation of an adequate and constitutional system of public education ..." Judge Conford concluded that while the 1975 Act was constitutionally suspect in a number of areas (e.g. minimum aid) it was "readily susceptible of constitutional correction."

Despite the various separate opinions, all the Justices agreed that the 1975 Act was only constitutional if fully funded.

VII. Robinson v. Cahill, Show Cause Order 1 N.J. Tax Cases 200-665, modifying 69 N.J. 449, 355 A.2d 129; (February 19, 1976).

The court issued an order to show cause to determine the appropriate relief in the event the legislature failed to fully fund the Public School Education Act of 1975 by June 30, 1976, for the 1976-77 school year.

Alternate remedies included:

1) The redistribution of such monies for state aid to schools as are appropriated along the lines of the 1975 Act;

2) A statewide school tax levied on each school district's assessed valuation in lieu of any other local property tax for school purposes;

3) An order to the State Treasurer to fund the 1975 Act in full using all funds in the State Treasury not needed to meet constitutional functions and requirements of federal law; or

4) An injunction against the distribution of all state aid for public education or against the raising of money by local taxation for the support of public education or both.

The Defendants-Appellants views splintered even further.

Briefs were filed by:[5]

A. Plaintiffs-Respondents;
B. Defendants-Petitioners:
   1) NAACP-ACLU;
   2) N.J. Education Association;
   3) The Education Reform Project of the Greater Newark Urban Coalition and the Board of Education of the City of Newark;
   4) N.J. School Boards Association;
   5) Morris School District;
   6) Board of Education of the Borough of Little Ferry;
   7) Little Egg Harbor Township Board of Education;
   8) Board of Education of Township of North Brunswick;
   9) Board of Education of Township of Monroe;
   10) Board of Education of Lower Camden County Regional High School District Number One;
   11) Board of Education of the Borough of Hasbrocuck Heights;
   12) Boards of Education of Twonship of Bass River, Eagleswood, Long Beach Island, Borough of Tuckerton and Pinelands Regional School District;
   13) Board of Education of the Borough of Lincoln Park.

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[5] See abstracts of briefs on pp. 41-49.

VIII. Robinson v. Cahill, 70 N.J. 155, 358 A.2d 457 (May 13, 1976) per curiam, (Robinson VI).

The court held that since the legislature had not funded the financial aid provisions of the 1975 Act as required, the existing unconstitutional method of public school financing should be enjoined. Effective July 1, 1976, all officials were enjoined from spending money for public schools except for the following purposes:

1) payment of principal, interest, and redemption on school bonds;

2) maintenance and security of school property;

3) contractual obligations for construction, etc.;

4) contributions toward teacher's pensions;

5) Blue Cross, Blue Shield, social security commitments; and

6) insurance.

The injunction was not to become effective if there was legislative action providing for the funding of the Act for the 1976-77 school year, effective July 1, 1976, or if there was any other legislative action effective by July 1, 1976 providing for a constitutional system of financing education.

Justices Mountain and Pashman dissented from the Court's order of injunctive relief which would apply if full funding of the 1975 Act was not forthcoming. Justice Mountain argued that the Court was overstepping its judicial prerogative by indirectly commanding that a state income tax be imposed. He

maintained that judicial restraint in this case was warranted for several reasons: separation of powers, judicial legitimacy, and complications arising from the task of enforcement of the order.

Justice Pashman believed that the injunction would only prove to have a self-defeating effect on public education. Instead, he proposed a remedial order whereby all school districts would derive their revenues from a common, state-wide property tax base. This remedy, he concluded, would "facilitate, rather than postpone, the long-awaited financial implementation of a constitutional system of public education."

IX. Robinson v. Cahill, 70 N.J. 464, 360 A.2d 400 (July 9, 1976), Injunction dissolved.

PART II*

ABSTRACTS OF BRIEFS

* Part II is divided into five sections which in turn are divided into three sections: A. Defendants-Petitioners; B. Plaintiff-Respondents; and C. Amici Curiae.

I. BRIEFS ON APPEAL FROM THE NEW JERSEY SUPERIOR COURT

A. Defendants-Petitioners; Attorney General George F. Kugler, filed May 19, 1972.

The Legislature can delegate the primary responsibility for maintenance of a T&E system of public schools to local school districts. Cases decided prior and subsequent to the 1947 Constitution have affirmed this proposition. The Legislature can discharge this duty through independent school districts operating through local property taxation. The evidence submitted failed to demonstrate any violation of the T&E Clause.

The Legislature's scheme for financing public education is in conformity with the Equal Protection requirements of the State and Federal constitutions. State public policy is served by delegating to local school districts the primary responsibility for public education, including the power to raise revenues. Equal protection does not require statewide uniformity in all things. Serrano cannot be distinguished from McInnis v. Shapiro and Burrus v. Wilkerson.

B. (1) Plaintiffs-Respondents, Ruvoldt & Ruvoldt, counsel, filed May 30, 1972.

In the statement of facts the issues of a cost-quality relationship is reviewed.

The equal protection clause prohibits the Legislature from discriminating in favor of the wealthy by distributing the state's educational resources in proportion to the wealth of residents of school districts. Local control of school districts is not a compelling state interest. The equal protection clause in the New Jersey Constitution would strike down the present method of funding education.

The doctrine of separation of powers or jucicial restraint does not require the court to defer hearing and determining the plaintiff's suit.

The local real property tax, when used to finance a state purpose such as education, is contrary to the mandate of the New Jersey Constitution requiring uniformity in taxation.

The Legislature has delegated to municipalities a non-delegable duty with regard to financing public schools.

Subsequent to the filing of the plaintiff's brief, the following cases were filed in support of the plaintiff's position:

(a) Milliken v. Green, filed January 5, 1973.

(b) Supplemental letter. Copies of Paker v. Mandel (1972).

(c) Superior Court Decision in Hollins v. Shofstall.

The Court entered a declaratory judgment holding the present system of financing public education in Arizona unconstitutional because it violates the Equal Protection Clause of both the Federal and State's constitutions.

C. Amici Curiae:

(1) NAACP, ACLU, Paul Tractenberg, counsel, filed June 6, 1972.

The State violated the education clause of the N.J. constitution by failing to provide a thorough and efficient education to all children in the state. The state is ultimately responsible for insuring that a thorough and efficient education is provided to all children of the state. A thorough and efficient education must enable all children in the state to become fully productive citizens. Thorough and efficient is an output criteria. The manner in which the public school system is financed has a critical bearing on student output and the present system does not comply with the state's constitutional mandate to provide thorough and efficient schools. Full funding of the Bateman Act cannot be reasonably expected within the near future and, in any event, full funding would not enable the state to meet its constitutional mandate. All children in the state must receive a thorough and efficient education before some school districts may provide their children with peculiar advantages.

The State has violated the tax uniformity clause in the N.J. Constitution by attempting to meet a common state purpose, (the support of a thorough and efficient school system), through the imposition of unequal tax burdens on taxpayers of the same class.

N.J. has violated the equal protection clause of the State and Federal constitutions by maintaining a system of free public schools which effectively classifies children and taxpayers on the basis of the wealth of their school districts and which discriminates against those in poor school districts.

(2) N.J. State Office of Legal Services, Melville D. Miller, Jr., counsel, filed June 30, 1972.

New Jersey's system of financing public education fails to provide a T&E education, is a denial of equal educational opportunity and discriminates against taxpayers. The constitutional mandates of a T&E education and equal educational opportunity may require compensatory educational treatment for disadvantaged children. Both input and output criteria should be used to determine whether there is educational equality. Local control is merely a euphemism for unconstitutionally discriminatory allocation of educational benefits.

(3) City of Clifton and William Holster, Arthur J. Sullivan, Jr., City Counsel, filed September 11, 1972.

The enforcement of the court order enjoining disbursement of minimum support and save-harmless state aid funds will result in financial havoc and confusion for the school districts of N.J. and unreasonable hardship for their taxpayers. The City of Clifton will lose approximately two million dollars in minimum support aid, which would necessitate a 10% increase in its tax rate.

The existing system of financing public education in N.J. is not based on an unconstitutional classification of wealth but rather is a natural consequence of the division of the nation into state and local governing units on a purely geographical basis.

(4) Permanent Commission on State School Support, Pitney, Hardin & Kipp, counsel, filed June 20, 1972.

The Legislature should be allowed more time to enact a non-discriminatory system of taxation before the Court issues an injunction.

The requirements of the equal protection clause and the thorough and efficient clause do not prohibit local school districts from supplementing state funds with their own sources of revenue.

II. BRIEFS FILED IN RESPONSE TO THE COURT'S ORDER OF APRIL 3, 1973, REGARDING THE FORM OF REMEDIAL ACTION.

A. Plaintiffs-Respondents, Ruvoldt & Ruvoldt, counsel, filed April 30, 1973.

The form of the judgment should include the following: (1) the present financing system is unconstitutional; (2) the judgment is prospective only and does not effect the operation of the schools; (3) legal money obligations (e.g. bonds) shall not be impaired; (4) remand to trial court; (5) no state moneys should be distributed pursuant to the save-harmless provision or the minimum support aid provision of the Bateman Act and the districts must enact legislation providing for a T&E school system; (6) possible interim relief would be the enjoining of the operation of certain provisions of the school aid formula.

B. (1) Defendants-Petitioners, Attorney General George F. Kugler, filed May 2, 1973.

The Legislature should be given a reasonable amount of time to enact appropriate legislation.

Any court order with respect to the reallocation of appropriated funds would violate Article III of the N.J. Constitution which provides for the separation of powers and Article IV which guarantees a republican form of government. The Due Process Clause of the 14th Amendment to the U.S. Constitution also prohibits such an order.

(a) Appendix. Affidavit of Edward W. Kilpatrick, Acting Comissioner of Education.

The State Board of Education expressed its concern that the present system of distributing state aid not be disturbed for the 1973-74 school year so as to prevent large budget deficits in many school districts.

(b) Resolution attached.

(c) Supplemental Letter Brief, Acting Attorney General Stephen Skillman, filed May 17, 1973.

Explanation of why the save-harmless provision was necessary even under a fully funded Bateman Act.

C. Amici Curiae:

(1) NAACP-ACLU, Paul Tractenberg, counsel, filed February 24, 1975.

The court should establish a specific timetable for the development and implementation of a constitutionally efficient school finance statute. To accomplish this task, the State Commissioner of Education should submit a plan for providing a thorough and efficient education in conformance with the courts opinion to a standing master designated by the Court. In the event the Legislature fails to enact adequate legislation, the Court should order specific injunctive relief.

(2) City of Clifton and William Holster, supplemental letter, Arthur J. Sullivan, Jr., counsel, filed April 16, 1973.

A sufficient period of time should be permitted before judgment so that changes can be made in the existing method of school financing.

III. BRIEFS FILED IN RESPONSE TO THE COURT'S ORDER OF JANUARY 23, 1975 REGARDING THE IMPLEMENTATION OF THE CONSTITUTIONAL MANDATE.

A. Plaintiffs-Respondents:

Brief on Remedies, Ruvoldt & Ruvoldt, counsel, filed February 27, 1975.

The court must now devise a judicially enforceable order to guarantee students a thorough and efficient education. This task requires the definition of thorough and efficient and its application to all school children.

The court should appoint a master to determine the nature of the judicial remedy. The order should enable all school districts to achieve the educational goals adopted as a result of the "Our Schools" project.

B. Defendants-Petitioners:

(1) Attorney General William F. Hyland, filed February 14, 1975.

The constitutional guarantee of a T&E education can be most effectively met by the adoption of a system under

which local school districts are responsible for identifying individual educational needs and establishing programs to meet those needs. The Department of Education shall monitor and evaluate the programs of each local school district. The Department will require any district failing to meet the constitutional guarantee to take necessary remedial action.

The Department of Education has sufficient authority under existing legislation to monitor and evaluate the quality of education provided by local school districts and to require local districts to remedy any deficiencies found to exist in their educational programs.

(a) Appendix to Attorney General's Brief, filed February 24, 1975.

Senate Bill 1516. Recommended Revisions to N.J. Administrative Code. Order of Commissioner of Education--in matter of Audit of Newark School District.

(b) Supplemental Appendix to Brief of Attorney General, filed March 10, 1975.

Revisions to the N.J. Administrative Code, State Board of Education, March 5, 1975, replacing portions of appendix to Attorney General's brief filed February 24, 1975.

(2) Brendan T. Byrne - Governor of New Jersey, Lewis B. Kaden, counsel, filed February 24, 1975.

In the absence of legislative action, the court should require the Department of Education to propose regulations implementing a thorough and efficient education.

The court is fully competent to remedy the constitutional deficiencies in the existing scheme and should direct the distribution of school aid on an equalizing basis.

The court should define the system of education and direct the distribution of appropriated funds to further the constitutional mandate without reference to a standing master.

(3) President of the Senate and N.J. Senate, Warren, Goldberg & Berman, counsel, filed February 24, 1975.

The judicial power of the State does not encompass within it the power to redistribute funds appropriated by law even if in furtherance of a constitutional objective.

The Court should not undertake to establish what constitutes a thorough and efficient education but should set forth more specifically the constitutional limits within which the legislature may act.

The brief cited an excerpt from argument submitted by the Attorney General in briefs of October 1974. "Separation of powers prohibits the judiciary from performing an exclusively legislative function."

In addition to the brief filed on behalf of the Senate, the following briefs were submitted by individual Senators:

(a) Senate and President of Senate, Reply Brief, Warren, Goldberg & Berman, counsel, filed March 3, 1976.

The various redistribution proposals advanced to this court do not represent such a clear improvement over the present system that would justify judicial imposition of a revised distribution program.

(b) Memorandum of Anthony Scardino, Jr., Senator, District 36, Lyndhurst, N.J. filed February 24, 1975.

Senator disagreed in part with position taken by counsel for N.J. Senate.

The Legislature has the responsibility for defining and implementing a thorough and efficient system of public education and should be given additional time to complete its initial accomplishments.

Studies indicate that dollar input has little, if any, correlation with pupil success.

Senate Bill No. 1295 introduced July 1, 1974.

(c) State Senators Martin L. Greenberg, Joseph P. Merlino, Alexander Menza, John Russo, Anne Martindell, Attorney pro se Martin L. Greenberg, filed March 4, 1975.

The Legislature's excessive delay mandates that the Supreme Court remedy the present unconstitutional deprivation of individual rights.

(4) Speaker of General Assembly and General Assembly, Borrus, Goldin & Foley, counsel, filed March 3, 1975. Statement in lieu of brief attached, Assembly Bill No. 2371.

The General Assembly is continuing its efforts to formulate a legislative package on all aspects of public school funding which will comply with the court's mandate. The various opinions in the General Assembly do not permit a definitive position on the question of the court's power or the appointment of a special master.

(a) Memorandum of Alan J. Karcher, Assemblyman, District 19, filed March 6, 1975.

It is the Legislature's responsibility to define the concept of thorough and efficient and the court should not usurp the Legislature's appropriation power.

(b) Herbert C. Klein, Assemblyman, 34th District, Reply, filed March 7, 1975.

The court should reexamine the concepts that educational quality is directly related to the amount of money spent on education and that rich communities are those with the highest amount of tax ratables per pupil.

The Judiciary should not compel the Legislature to act at this time until a more equitable means can be determined for distributing state aid and standards established to define equal educational opportunity.

C. Amici Curiae:

(1) NAACP-ACLU, Paul Tractenberg, counsel, filed February 24, 1978.

The Court should appoint a special master to recommend a remedial plan for implementing a thorough and efficient system.

A remedial plan should become effective by July 1, 1976.

The court should retain jurisdiction to insure implementation of its order.

(a) NAACP-ACLU, Reply Brief, Paul Tractenberg, counsel, filed March 4, 1975.

The court has the power to order state action that will provide all children with a T&E education.

The court should entertain argument about the mechanism and timetable of a development of a final remedial order.

The court should not adopt any proposals of the parties or amici with regard to the details of the remedial plan without an opportunity for more extensive input. The court should not adopt the state education department's proposed regulations as the definition of a T&E system of education because those regulations raise serious questions regarding whether they meet fully the constitutional mandate as interpreted by the court.

Appendix - Memo to Fred G. Burke, Commissioner of Education from Paul L. Tractenberg.

Comments regarding the education department's proposed definition of a T&E system of education.

(b) Letter of Memorandum from Paul L. Tractenberg to the Court, filed March 31, 1975.

Input regarding the criteria to be included in an order of reference to a Special Master.

(2) N.J. Education Association, Ruhlman & Butrym, counsel, filed February 24, 1975.

It is a legislative function and responsibility to define what is a thorough and efficient system of public education and the development of its specific terms is properly delegated to the State Board of Education and local boards of education.

The court does have the power to legislate within the bounds of its duties and powers but it must exercise restraint when interfering with the legislative process.

(3) N.J. Education Reform Project of the Greater Newark Urban Coalition, Pickett & Jennings, counsel, filed February 24, 1975.

Large numbers of disadvantaged children who are grossly deficient in educational attainment are concentrated in urban school districts of below average fiscal capacities.

The definition of thorough and efficient must be concerned with each district's educational resources, and with their effectiveness in preparing children for citizenship and the job

market. The definition must also include imparting basic skills to every child.

The Court should require the state to implement those aspects of the definition of a thorough and efficient education pertaining to basic skills.

A special master should be appointed with directions to consider the elimination of these deficiencies as central to the creation of a T&E system.

(a) N.J. Education Reform Project of the Greater Newark Urban Coalition, Letter Memorandum in Reply, Pickett & Jennings, counsel, filed March 5, 1975.

The proposed education department's regulations defining a T&E education should not be endorsed because neither the parties nor amici have had an adequate opportunity to consider and respond to the proposal. Instead, the proposal should be submitted to a Special Master.

The proposed regulations do not set as a statewide goal the timely acquisition of basic skills by all children.

(4) N.J. School Boards Association, Reply Brief, William J. Zaino, counsel, filed March 6, 1975.

The court must now fashion a judicially enforceable order to guarantee all children a T&E education. A Special Master should be appointed to hear relevant views with regard to the court's power, the definition of T&E, and the proposed regulations of the state education department.

(5) City of Newark, Milton A. Buck, Corporation Counsel, filed February 24. 1975.

The court should appoint an expert master and prescribe guidelines for the master to follow in defining a thorough and efficient system of public education and in developing a school finance plan.

(6) Morris School District, Mayner, Landis & Verdon, counsel, filed February 24, 1975.

The Court should appoint a standing master who should

take into consideration in formulating a remedy the educational requirements and financial needs of each of the various districts.

The funding by ratables per pupil should not form the basis of the court's decision on remedies.

(a) Morris School District, Reply Brief, Mayner, Landis & Verdon, counsel, filed March 3, 1975.

The court does not have the constitutional power to order the manner in which state funds shall be disbursed. Rather, the court should, after reference to a special master, declare the extent of the Legislature's obligation.

Assuming the court does fashion a remedy, an equitable solution would be the reallocation of funds based upon the percentage of the municipal budget spent on the school system. There is no correlation between dollar input and educational results.

(7) Board of Education of Township of Lyndhurst, Checki & Politan, counsel, filed February 24, 1975.

The Legislature's failure to implement a T&E school system should be remedied by the electorate.

A thorough and efficient system of public schools cannot be accomplished by a system of financing based on equalized valuation either defined in terms of dollar expenditures per pupil or by equalized assessed valuation.

Assuming the court has the power to order relief, a special master should be appointed to take evidence and make recommendations.

The proposals currently before the Court would cause an increase in taxation of the residents of Lyndhurst.

(8) Mayor of the Borough of Carlstadt, Paul S. Barbire, counsel, filed February 24, 1975.

The new financing systems which are being discussed would have a detrimental financial effect on the people of Carlstadt. The court does not possess the power to alter or impose any type of statutory financing scheme. The court should defer to the Legislature. The appointment of a special master is not necessary because this court has no power to alter the present financing scheme.

(9) Board of Education of Boroughs of Avon-by-the-Sea, and Belmar, Peter Shebell, Jr., counsel, filed February 21, 1975.

A thorough and efficient system of public education should be defined in terms of statewide minimum programs, services and facilities. The state should fund these minimum requirements fully and directly. The funding should not be based upon valuations of real property.

(10) Board of Education of Township of Mendham, Mills, Doyle, Hock & Murphy, counsel, filed February 24, 1975.

The Legislature should have as much time as necessary to properly frame suitable legislation. Assuming, however, that the court has the power to order changes in the present statutory financing system, the court should appoint a special master to hear the views of all the parties.

(11) Township of Livingston and Boards of Education of School Districts of Montclair, Berkeley Heights, Chatham Township, New Providence, Rumson, Sandyston-Walpack, Summit and Millburn, McCarter & English, counsel, filed March 3, 1975.

The court cannot deprive school districts of existing state aid without an opportunity and procedure to be heard.

(12) Pleasantville Taxpayers Association and Taxpayers Association of Weymouth, Inc., Morton Feldman, counsel, filed March 6, 1975.

Brief presents a possible solution to the problem of N.J. school funding.

IV. BRIEFS FILED CONCERNING THE CONSTITUTIONALITY OF THE PUBLIC SCHOOL EDUCATION ACT OF 1975.

A. Plaintiffs-Respondents, Ruvoldt & Ruvoldt, counsel, filed November, 5, 1975.

The court should decline to alter its redistribution order of May 23, 1975 until the State Board of Education adopts goals, standards, and rules pursuant to the 1975 Act.

The 1975 Act is unconstitutional for failing to comply with the state's constitutional law concerning education and fiscal adequacy. The Act also violates the Equal Protection Clause, and fails to fix the costs of securing a thorough and efficient education. The Minimum Aid and save-harmless provisions are also invalid in light of the court's May 23 order.

B. Defendants-Petitioners:

(1) Attorney General, William F. Hyland, filed November 5, 1975.

The court can pass upon the constitutionality of the 1975 Act because the Act has been signed into law and is immediately effective.

The Legislature has properly discharged its obligation under the education clause by enacting the 1975 Act because the Act establishes an effective method of evaluating the educational progress of local school districts; compels local school districts to correct any deficiencies; and requires them to raise the funds required to provide a T&E system of education.

The 1975 Act is constitutional under the state constitution's equal protection clause because there is a rational basis for the legislative determination to delegate primary responsibility for public education, including the power to raise revenues, to local school districts. The Legislature may provide a formula of state aid which does not simply seek to equalize the local fiscal burden.

(a) Attorney General, Reply Brief, filed November 14, 1975.

The constitutionality of the Public School Education Act of 1975 is ripe for consideration even though subsequent legislative and administrative actions may also require judicial review to determine compliance with the education clause of the N.J. Constitution.

The Act authorizes the Department of Education to require local school districts to increase overall expenditures for education when necessary for compliance with the education clause of the N.J. Constitution.

(2) Brendon T. Byrne, Governor of N.J., Lewis B. Kaden, counsel, regarding the 1975 Act, filed November 5, 1975.

The 1975 Act meets the requirements of the N.J. Constitution (i.e. equal protection and the requirements of a T&E educational system), and should be implemented in the 1976-77 school year provided that the Act is fully funded by December 31, 1975. This is the latest date by which educational authorities must be apprised of the amount of state aid so as to permit proper planning and budgeting.

In the event that the Legislature fails to fully fund the 1975 Act, the court should order the state treasurer to allocate sufficient funds from the available resources. The separation of powers doctrine would not operate as a bar to effective judicial action.

(a) Governor's Memorandum regarding alternative remedies, filed December 1, 1975.

Alternative remedies within the remedial power of the court if the Legislature fails to provide for full funding of the 1975 Act are: (1) An order directing that funds in order to be appropriated for non-equalizing categories of state school aid under the 1975 Act must be distributed instead according to the provisions of the equalization support formula in the 1975 Act; (2) An order enjoining the distribution of all state aid; (3) An order relieving local governments of the fiscal obligation of supporting education and directing that the state fund the mandated educational system; (4) An order directing the sequestration of moneys raised by local school property taxes in municipalities with equalized valuations per pupil higher than $86,000 and redistribution of the money under the equalization support formula of the 1975 Act.

(3) President of Senate and N.J. Senate, Warren, Goldberg & Berman, counsel, filed November 5, 1975.

It would be judicially improper for the court to pass upon the constitutionality of the Public School Education Act of 1975 without the development of a proper record by a court of general jurisdiction following the commencement of a new cause of action.

State aid should be distributed to school districts, for the school year 1976-77, in accordance with the provisions of the 1975 Act regardless of any determination concerning the validity of the Act.

The Act does establish goals and provides a workable procedure for establishing what constitutes a T&E system of education.

(a) President of Senate and Senate, Supplemental Memorandum, filed December 1, 1975 after oral argument.

The court should be wary of pitfalls in the finance area. The 1975 Act should be utilized for the distribution of school aid funds.

Chapter 212 is a responsive distribution formula and precludes the necessity for the previous method of weighting of pupils.

Appendix attached.

(4) Speaker of the General Assembly and the General Assembly, Borrus, Goldin & Foley, counsel, filed November 14, 1975.

The 1975 Act satisfies the obligation imposed upon the Legislature to provide for a T&E system of education. The validity of the Act should be determined solely on its statutory framework and without regard to fiscal implications.

The minimum aid and save-harmless provisions of the 1975 Act is a valid exercise of legislative judgment as to the method in which state aid is apportioned. The court did not declare such provisions to be per se unconstitutional.

C. Amici Curiae:

(1) NAACP-ACLU, Reply Brief, Paul Tractenberg, counsel, filed November 14, 1975.

The 1975 Act should not be permitted to go into effect as an interim plan for the 1976-77 school year. The 1975 Act is not constitutional for the following reasons: (1) the state aid formulae do not satisfy the state's obligations under the education clause; (2) the provisions in the Act for insuring local compliance with state standards are inadequate to satisfy the state's obligation under the education clause; (3) the Act violates the N.J. Constitution's guarantee of equal protection, and the court should adopt equal protection as a supplementary ground for its decision.

(a) NAACP-ACLU, Paul Tractenberg, counsel, Letter in lieu of Supplemental Brief, dated December 1, 1975. Attached text of Serrano v. Priest.

The Legislature has delegated the task of defining the educational obligation of local school districts to the State Board of Education. Until the State Board completes its rule-making procedure, no decision on this issue is possible at this time.

(2) N.J. Education Association, Ruhlman & Butrym, counsel, filed November 5, 1975.

The 1975 Act should be approved by the court on an interim basis for the 1976-77 school year only if fully funded. However, Section 25 which places arbitrary limits on local budgets should not be approved. If the Legislature fails to appropriate necessary funds, the court should compel them to do so.

(3) N.J. Education Reform Project of the Greater Newark Urban Coalition, Pickett & Jennings, counsel, filed November 5, 1975.

The state has failed to define its constitutionally required educational obligation in a discernible way. This makes review of the 1975 Act inappropriate at this time.

The 1975 Act is not visibly geared to the constitutional mandates to provide a T&E system of education. The Act results in wealthy school districts obtaining more aid and poor urban districts less aid than required under the courts interim relief plan.

The disqualifying tendencies of the 1975 Act are apparent since the key provisions of the Act, such as minimum aid, save-harmless, and flat grants of categorical aid, prevent equalizing.

(a) N.J. Education Reform Project of the Greater Newark Urban Coalition, Pickett & Jennings, counsel, filed December 2, 1975.

The data submitted by the State Education Department supports amici's position that at every funding level, the court's May 13, 1975 interim plan provides greater aid to urban and poor suburban districts than the 1975 Act.

(4) N.J. School Boards Association, William J. Zaino, counsel, filed November 5, 1975.

The Public School Education Act of 1975 complies with the minimum requirements of defining a constitutional system of education and should be permitted to take effect for the 1976-77 school year.

The Act, if fully funded, does comply with the constitutional mandate in sufficiency of financial and state aid provisions. However, Section 25 of the Act which places limitations upon increases in local school district budgets is unconstitutional.

(5) Mayor of Borough of Carlstadt, Paul S. Barbire, counsel, filed October 29, 1975.

The 1975 Act is superior to the court ordered redistribution set forth in its order of May 23, 1975. Section 29 of the 1975 Act should be applied prospectively so that existing regional school districts are not affected thereby.

(6) Township of Livingston and Boards of Education of School Districts of Monclair, Berkeley Heights, Chatham Township, New Providence, Rumson, Sandyston-Walpack, Summit, and Millbern, McCarter & English, counsel, filed November 5, 1975.

The validity of the 1975 Act should be considered now so as to facilitate the local school district's task of budget development.

The 1975 Act is constitutional under the equal protection provision of the state constitution. Once the minimum financing of a minimum level of education is provided, per pupil assistance to all districts should be permitted.

V. BRIEFS FILED IN RESPONSE TO THE COURT'S FEBRUARY 19, 1976 SHOW CAUSE ORDER. Possible remedies available to court include:

A. Direct a redistribution of money appropriations by the Legislature for state aid to schools for the school year 1976-77 pursuant to the 1975 Act in such a manner as to give priority to the satisfaction in full of the provisions

of the 1975 Act for the payment of current expense equalization support for debt service and budgeted capital outlay equalization support.

B. Order a statewide school tax levied on each school district's equalized assessed valuations in lieu of any other local property tax for school purposes.

C. Order the State Treasurer to fund the 1975 Act in full, using all funds in the State Treasury not needed to meet constitutional functions of government or meet requirements of federal law.

D. An injunction against distribution of all state aid for public education or against raising of money by local taxation for the support of public education or both.

A. Plaintiffs-Respondents, Ruvoldt & Ruvoldt, counsel, filed March 8, 1976.

The only effective and final disposition of this matter would be for the court to impose a uniform statewide tax levy.

B. Defendants-Petitioners

(1) Attorney General William F. Hyland, Brief on Remedies, filed March 8, 1976.

A negative injunction, imposed to curb governmental excess, is the accepted form of relief upon a finding of unconstitutionality. In this case, the government has not been excessive, rather it has not gone far enough in meeting its affirmative obligation to provide a thorough and efficient school system. Thus, a mandatory injunction would be better suited as a form of relief. A negative injunction would be inappropriate because the eventual effect would be to close the schools.

A redistribution of state aid within the appropriation for state aid to education would be an inappropriate remedy. Problems include: (1) no way of knowing how much money the Legislature will appropriate for education; (2) uncertainty among local school districts will not end; (3) the 1975 Act, if not fully funded, is unconstitutional.

The redistribution of legislative appropriations (option C) would be an extraordinary exercise of judicial

power. This option would have a devastating effect on other vital government services.

The imposition of a statewide property tax would raise grave constitutional questions.

(a) Affidavit of Fred G. Burke, Commissioner of Education, filed with Attorney General's Brief.

The Commissioner urged the court to order the State Treasurer to fund the 1975 Act in full using all funds in the state treasury not needed to meet constitutional functions or requirements of federal law (option C).

Remedy B would require major administrative and law changes to implement. Option A is non-equalizing under a guaranteed valuation of $86,000 and a pro rate payment of equalization aid. Option D is unacceptable because it would bring the N.J. education system to a halt and work to penalize the children.

(2) Governor Brendan T. Byrne of N.J., Brief on Remedies, Lewis B. Kaden, counsel, filed March 8, 1976.

The Court's remedial power includes the authority to implement each of the remedies described in the show cause order.

The Court may enjoin the raising of money by local taxation for the support of public education. A negative injunction may prompt legislative remedies. Nevertheless, the injunction should be directed only against local taxation.

The Court may redistribute available appropriations for education more fully but this would do nothing to eliminate the uncertainties surrounding the school budget process, and would permit the Legislature to appropriate funds for state education at lower levels.

The Court has the power to impose a uniform statewide property tax but there are practical consequences to consider.

The Court can order the State Treasurer to allocate sufficient funds from available resources to fund the 1975 Act. Reluctance to impose affirmative obligations on other branches of government has given way before the imperative of assuring fundamental constitutional rights. However, the 1975 Act cannot be funded out of available revenues without working extreme hardship on the other essential services provided by the state.

(3) President of the N.J. Senate and the N.J. Senate, Brief on Remedies, Warren, Goldberg, and Berman, counsel, filed March 8, 1976.

The judiciary has the inherent power to respond affirmatively in the face of inadequate legislative action, but remedies which would necessitate the exercise of the state's power of taxation cannot properly fall within the contemplation of the judiciary, "The level of taxes is not a judicial function." This necessitates the rejection of Option B.

Option C is in clear violation of Article VIII, Section 2, par.2--the Appropriation Clause. The action contemplated here would abrogate to the court the power to appropriate in advance of legislative action.

Option D is within the judicial power but is potentially the most destructive of the state's educational system.

Option A, if necessary, would be the most appropriate remedy. However, many state courts have concluded that the judicial power should not extend to this type of action. The Senate urges judicial restraint in this area.

(4) Speaker of the General Assembly and the General Assembly, Brief on Remedies, Borrus, Goldin, and Foley, counsel, filed March 8, 1976.

The constitutional obligation to provide for the funding of a thorough and efficient system of education is a legislative and not a judicial function. The 1975 Act will, in all likelihood, be fully funded. Thus, the proposed remedies are inappropriate.

Judicial redistribution of funds may result in 165 school districts not receiving state aid because they have guaranteed valuations above $86,000 per pupil. A statewide property tax and redistribution of state funds appropriated for school purposes raise fundamental questions as to its constitutionality. The proposal to enjoin collection and distribution of all funds for educational purposes would compound the problem. The proposal that all funds in the State Treasury be reallocated makes the court a "super legislature."

The Court should take no action to disrupt the school system in N.J. No other state court has attempted to impose the extraordinary judicial remedies which the N.J. court is now considering. Remedial action is for the Legislature, not the judiciary.

C. Amici Curiae:

(1) NAACP-ACLU, Paul Tractenberg, counsel, filed March 8, 1976.

The state aid provisions of the 1975 Act are facially unconstitutional if not fully funded and should not be permitted to go into effect.

In devising interim relief, the court must make its own determination as to how best to provide the funds necessary to effectuate the thorough and efficient clause.

The court should consolidate school districts into regional school districts for the limited purpose of raising school revenues. The court does have the power to compel inferior political subdivisions to raise and disperse revenues which does not impinge upon the doctrine of separation of powers or the appropriations clause in the N.J. constitution.

If the court does not adopt this plan it should reinstate its May 23, 1975 order. The order can be funded by affirmatively enjoining the State Treasurer to disburse state moneys only for constitutionally mandated functions--including education.

The 1975 Act can be permitted to go into effect if the court orders full funding.

(2) N.J. Education Association, Brief on Remedies, Ruhlman and Butrym, counsel, filed March 8, 1976.

The best and most practical solution to the problem at hand would be full funding of the 1975 Act by the Legislature.

Option A is not an adequate response to the constitutional mandate. This remedy accepts the premise that conformance with the constitutional mandate can wait another year, and discounts the importance of categorical aid and transportation aid to many low wealth school districts.

Option B should be modified to provide for a statewide school property tax not dependent on budgets adopted by local and school districts. Otherwise, option B does not provide any realistic total of moneys needed by local districts for a thorough and efficient system since the budgetary process was so confused.

While Option C would result in the disruption of many essential services provided by the state, it could be used. Option D would solve nothing except closing the schools in an attempt to force the Legislature to perform its duty.

(3) The Education Reform Project of the Greater Newark Urban Coalition and the Board of Education of the City of Newark, Brief on Remedies, Pickett and Jennings, counsel, filed March 8, 1976.

The first priority of the court should be given to remedies which will fully fund the 1975 Act. A uniform statewide tax under Option B would fully fund the budgets of all school districts. This interim method raises no serious separation of powers issues. If funds are insufficient to fully fund the 1975 Act then the court should allocate available funds to maximize equalization aid to the districts with the least property wealth per pupil and disproportionate educational burdens.

(4) N.J. School Boards Association, Brief on Remedies, William J. Zaino, counsel, filed March 8, 1976.

The court should order full funding of the 1975 Act using those funds from the State Treasury which are not needed to satisfy other constitutional requirements or to insure the continuation of federal appropriations, (Option C).

The remedy is no more drastic than that already ordered in Robinson IV except that the court will order the redistribution of non-educational moneys to educational purposes. The Legislature has broad discretion in the allocation of appropriated funds, but that discretion is subject to the provision that constitutionally required programs be funded before any moneys be spent for other purposes. Options A and B would only frustrate the 1975 Act and Option D would have a harmful impact on vital educational programs.

The Association emphasized that if the Court or Legislature provides full funding of the 1975 Act, school districts that in good faith budgeted on the assumption of partial funding should receive their full entitlement of state aid, and should have discretion, subject to review by the Commissioner of Education, to use these moneys for property tax relief, surplus, or staffing, and programming for the 1976-77 school year.

(5) Morris School District, Letter Brief, Meyner, Landis, & Verdon, counsel, filed March 8, 1976.

Proposed remedy C should be adopted so that districts such as Morris School District which have both high municipal

overburden and high ratables will continue to receive the minimum aid and save-harmless aid which they need to run the schools and still provide for the non-educational needs of their residents.

(6) Board of Education of the Borough of Little Ferry, N.J., William DeLorenzo, Jr., counsel, filed March 8, 1976.

The court has no power to order redistribution of state aid funds for schools. The proposed redistribution of state aid pursuant to remedy A would result in gross inequities by reason of the structural development of the various communities throughout N.J. A statewide school tax (B) is neither realistic nor equitable. The proposed remedy C (order to the State Treasurer to fund the 1975 Act) is unconstitutional and the proposed injunction is not practical and would result in great harm to the educational system of all school districts.

(7) Little Egg Harbor Township Board of Education, Kelly and Butensky, counsel, filed March 3, 1976.

The Board of Education of Little Egg Harbor sought a determination from the court to guard against the situation where the Legislature fails to fully fund the Act and the school district will receive zero assistance. Remedy C is considered the best for implementing the intent of the 1975 Act.

(8) Board of Education of Township of North Brunswick, Busch and Busch, counsel, filed March 8, 1976.

North Brunswick Township is classified as a rich district based upon the formula employed by the Legislature which has resulted in zero state aid granted to the district. This is manifestly unfair because it does not take into account North Brunswick's high debt service and student transportation costs. The North Brunswick School District would support remedy C.

(9) Board of Education of Township of Monroe, Busch and Busch, counsel, filed March 8, 1976.

Monroe Township is penalized under present aid formulas

and is to receive no state aid for the 1976-77 school year. This formula does not take into account the high debt service and student transportation costs facing the Monroe Board of Education. The Monroe Township School District would support remedy C.

(10) Board of Education of Lower Camden County Regional High School District Number One, Maressa, Daidone & Wade, counsel, filed March 8, 1976.

Anything less than a full funding allocation to the district would necessitate the closing of its schools.

(11) Board of Education of the Borough of Hasbrouck Heights, Kiefer, Bellermann & Kaplowitz, counsel, filed March 8, 1976.

The court should act to distribute school aid moneys only in the absence of action by the Legislature. Available moneys, if redistributed, should be at least proportionately allocated to each pupil on the basis of the total number of pupils in the state. A statewide property tax should not be used to fund district budgets. The 1975 Act should not be funded by the use of funds not otherwise mandated by the Constitution. The court may consider a temporary injunction against distribution of all funds until the Legislature and Commissioner of Education have completed their work. However, there is no need at the present time for the court to assume constitutional powers given to other branches of the government.

(12) Board of Education of Township of Bass River in County of Burlington; Boards of Education of Township of Eaglewood; Long Beach Island, Borough of Tuckerton and the Board of Education of Pinelands Regional School District in the County of Ocean, James L. Wilson, counsel, filed March 8, 1976.

Remedy A, the distribution of available state aid on a pro rata basis is the most appropriate approach for the court to take. However, special aid programs such as transportation and special education should be given priority and be paid before the pro rata distribution.

(13) Board of Education of the Borough of Lincoln Park, Hoffman, Fiorello and Hallock, counsel, filed March 9, 1976.

The court must, at a minimum, order the State Treasurer to fund the 1975 Act at the level of appropriation contained in the governor's budget request and direct the redistribution of such moneys in accord with remedy A without a reduction in the $86,000 guaranteed valuation.

PART III*

AN ANNOTATED BIBLIOGRAPHY OF LEGAL PERIODICALS MAKING REFERENCE TO ROBINSON

* Part III is divided into four sections based upon the nature of the reference made to Robinson.

I. ROBINSON V. CAHILL: GENERAL REFERENCE.*

1. BEEBE, JAMES W., The Death Knell to Ad Valorem School Financing, Symposium--Serrano v. Priest, 5 URB. LAW. 83 (1973).

   The article examines the implications of Serrano for the property tax. The lower court decision in Robinson v. Cahill is cited as an example of a court issuing a protective order for bond and note financing of local school districts.

2. BERKE, JOEL S. AND JUDY G. SINKIN, Developing a 'Thorough and Efficient' School Finance System: Alternatives for Implementing Robinson v. Cahill, 3 J. L. & EDUC. 337 (1974).

   The article discusses "the interplay of legal, fiscal, and educational policy surrounding the implementation" of Robinson v. Cahill. It analyzes the problems that affected the system of raising and distributing educational resources in New Jersey. The system is characterized as unfair, inefficient, and arbitrary. The authors discuss disparities in spending levels and tax resources in terms of differences between cities, suburbs, and rural areas, and in terms of racial discrimination. Two major directions for reform effort are proposed: (1) full state financing of public schools; and (2) improve the fairness and adequacy of state-local educational funding and enhance the leadership role of the Department of Education.

3. BERKE, JOEL S. AND MICHAEL W. KIRST, The Federal Role in American School Finance: A Fiscal and Administrative Analysis, 61 GEO. L. J. 927 (1973).

   The article examines the fiscal and administrative aspects of federal aid to education and describes the patterns of

* All citations listed in each section will be listed alphabetically.

allocation and the processes that govern them. The lower court decision in Robinson v. Cahill is cited as an example of a recent court decision acting as a catalyst for the reexamination of state and federal programs supporting public education.

4. BOWMAN, J. H., Tax Exportability, Intergovernmental Aid, and School Finance Reform, 27 NAT'L TAX J. 163 (1974).

The article examines taxes rather than expenditures and local funding of public education with emphasis on tax exportability and intergovernmental aid. Robinson v. Cahill is used as an example of a school finance equal protection suit which has focused attention on the disparities in per-pupil fiscal capacity present in most school finance systems. The study concludes that (1) tax base composition differences contribute importantly to per pupil local revenue differences, and (2) unless the principal objective is to reduce local taxes, intergovernmental school aid should require local matching. These findings have important equity and efficiency implications for school finance reform.

5. BRIGGS, JAMES W. AND DONOVAN M. MAIN, Serrano II: A Case of Missed Opportunities, 4 HASTINGS CONST. L. Q. 453 (1977).

The article discusses the challenged school finance system and argues that the California Supreme Court failed to solve the state's school financing problems in Serrano. The court failed to establish sound criteria for determining whether a school financing system satisfies state equal protection requirements and to establish an appropriate standard of judicial review to be applied in equal protection cases. The approach of the N.J. Supreme Court in Robinson v. Cahill

is described as a balancing test and is a proposed alternative to the old analytical tests.

6. CARRINGTON, PAUL D., On Egalitarian Overzeal: A Polemic Against the Local School Property Tax Cases, Symposium--Serrano: Public School Finance, 1972 U. ILL. L. F. 212, 232 (1972).

The article maintains that the Serrano decision and lower court decision in Robinson v. Cahill were decided incorrectly for several reasons. The method of financing is not so irrational as Serrano assumes and alternative methods are of uncertain merit. Serrano principles are too broad and there are no adequate enforcement remedies available to the courts.

7. CLUNE, WILLIAM H. III, Wealth Discrimination in School Finance, 68 NW. U. L. REV. 651 (1973).

The article examines two sources of confusion in school finance litigation. First, the lack of information as to whether in fact poor people do tend to live more in poorer school districts rather than rich ones; and second, whether the discovery of any particular relationship between family wealth and district wealth should lead to a finding of constitutionally suspect wealth discrimination. Robinson v. Cahill is cited as holding only that differences in school district wealth must not continue to influence spending.

8. COMMENT, A Statistical Analysis of the School Finance Decisions: On Winning Battles and Losing Wars, 81 YALE L. J. 1303 (1972).

The comment examines the school finance decisions with an eye toward restructuring them so as to aid legislative reform rather than hinder it. The lower court decision in Robinson v. Cahill is noted throughout the comment as providing original and constructive thought with

regard to premises concerning individual wealth, district property values, and local educational expenditures.

9. COMMENT, Disparity in Financing Public Education: Is There an Alternative to Rodriguez, 8 U. RICH. L. REV. 88 (1973).

The article compares the more salient features of Robinson v. Cahill and Serrano v. Priest, and notes some of the advantages in the approach followed by the New Jersey court. It concludes that Robinson permits judicial review of the financing methods of local governmental services under similar state constitutional provisions while avoiding the "strict scrutiny" approach of Serrano, which lends itself too easily to attack against virtually any state or local government service funded by local property taxes. Robinson also has less impact on the desirable elements of home rule and guarantees an adequate education for all. However, local districts can exceed that standard if desired.

10. COMMENT, Educational Financing, Equal Protection of the Laws, and the Supreme Court, 70 MICH. L. REV. 1324 (1972).

The article was written before the Supreme Court's decision in Rodriguez; this comment examines the doctrinal and policy problems that the Court would confront and the alternative solutions available to the Court. Robinson is cited for the proposition that expert testimony can show a causal relationship between educational expenditures and educational quality.

11. COMMENT, Equal Protection and the Financing of Public Education in Wyoming, 8 LAND & WATER L. REV. 273 (1973).

Serrano, Van Dusarte, Rodriguez and Robinson are discussed and examined to determine their effect on the method of

financing public schools in Wyoming. New Jersey's education clause is examined.

12. COMMENT, Funding Public Education: A Need for Legislative Reform, 20 CATH. L. 130 (1974).

The article states that Robinson v. Cahill demonstrates the "grave difficulties" involved when a state court invalidates a financing scheme. In many cases the judicial response may be unmanageable and raises the possibility of a constitutional confrontation between the court and the state legislature. The article concludes that the most viable source for reform is in the legislature.

13. COMMENT, Serrano v. Priest: Renaissance for School Financing Through the Equal Protection Clause, 21 AM. U. L. REV. 685 (1972).

The article analyzes Serrano and its implications. Nevertheless, Robinson v. Cahill is significant for three reasons: First, it is the first school financing case to be decided after a complete trial; second, the first to deal with center cities and municipal overburden; third, the first to include public officials as plaintiffs and to unquestionably base its decision on state grounds.

14. COMMENT, The Aftermath of Serrano: The Strict Scrutiny Approach and the Viability of Property Tax Financing for Public Educational Systems, 17 VILL. L. REV. 928 (1972).

The article examines the soundness of the "strict scrutiny" approach to the problem of educational opportunity. Robinson (lower court decision) is examined in this light.

15. COONS, JOHN L., Recent Trends in Science Fiction: Serrano Among the People of Number, 6 J. L. & EDUC. 23 (1977).

The article focuses on what social science has done and can do for the courts in school finance litigation.

Robinson is criticized for not meeting the issue of cost-quality and for failing to specify the fault in the educational system beyond the phrase "thorough and efficient." This resulted in an unprincipled response from both social science and the legislature. Since the decision was a political act, no substantial change can be effected in New Jersey.

16. DUGAN, T. P., Constitutionality of School Finance Systems Under State Law: New York's Turn, 27 SYRACUSE L. REV. 573 (1976).

The article analyzes school finance suits brought in various states and their implications for New York litigation of the question. Robinson is applauded but its method of invalidation may not be useful to other states because of varying situations. It is noted that the legislature had been unable to comply with the court's mandate, and the court has been reluctant to impose a comprehensive remedy. Finally, the trouble in New Jersey could have a significant effect on New York's courts as they confront similar issues.

17. GLICKSTEIN, HOWARD A. AND WILLIAM L. WANT, Inequality in School Financing: The Role of the Law, 25 STAN. L. REV. 335 (1973).

The article analyzes the problem of inequality in systems of school finance, the judicial responses to the problem, and the probable effects of suggested reforms. Robinson is used as an illustration of the varied factors which must be taken into account in order to develop an equitable school financing formula.

18. HODGEMAN, DONALD R. AND WILLIAM K. KRAMER, Bondholders and Shareholders--The Effect of the Serrano Rule on School Bond Financing, 4 URB. LAW. 643 (1972).

The article discusses Serrano and its effect on the sale and repayment of school bonds used to finance

capital improvements. Robinson is cited for the proposition that bondholders have a continuing right to demand the levy and collection of property taxes to pay for their bonds.

19. HORNBY, D. BROCK AND GEORGE W. HOLMES, III, Equalization of Resources Within School Districts, 58 VA. L. REV. 1119 (1972).

The article discusses intra-district resource equalization, and examines Title I of the Elementary & Secondary Education Act and recent judicial developments. Robinson (lower court decision) is cited as an example of a state court ordering the end to the practice of affording poor districts less access to resources than wealthy districts within the same state.

20. INTRODUCTION, Symposium: Future Directions for School Finance Reform, 38 LAW & CONTEMP. PROB. 310 (1974).

The importance and implications of Robinson are discussed. Includes articles on New Jersey, California, Michigan, Washington, and Texas.

21. LEVIN, BETSY, Alternatives to the Present System of School Finance: Their Problems and Prospects, 61 GEO. L. J. 845 (1973).

The article examines the origin, rationale and consequences of recent school finance decisions requiring that the quality of education not be a function of a school district's wealth. Robinson v. Cahill (lower court decision) is examined in this perspective.

22. LEVIN, BETSY, Recent Developments in the Law of Educational Opportunity, 4 J. L. & EDUC. 411 (1975).

In its examination of fiscal inequity, the article discusses the legal challenges to school financing. New Jersey leads the way toward alternative litigation strategies but failed to clarify the meaning of

"equal educational opportunity." The article also examines equal treatment of the races and equal educational outcomes.

23. LINDQUIST, R. E. AND A. E. WISE, Developments in Education Litigation: Equal Protection, 5 J. L. & EDUC. 1 (1976).

This article summarizes the developments in litigation based on equal protection and examines Chief Judge Weintraub's analysis of Rodriguez, the New Jersey equal protection clause, and the New Jersey education clause. The article also discusses the court's request for argument on the methods for determining the definition of "thorough and efficient" and the translation of that term into financial terms.

24. LONG, D. C., Litigation Dealing with Urban School Finance Problems: Notes on Future Directions, 8 CLEARINGHOUSE REV. 334 (1974).

The focus of the article is on the legal theory which can be used to address the problems related to urban education. Robinson v. Cahill is better attuned to the needs of the cities and recognized the differing needs of disadvantaged children. But, the Robinson decision does not mean equity for urban taxpayers. Robinson is criticized as lacking the "clarity of meaning" which would precondition any successful export to other states.

25. LUTZ, FRANK W. AND DAVID J. EDGREN, School Finance: A Critical Look at Pennsylvania's Act 125, 5 J. L. EDUC. 317 (1976).

The article examines the funding aspects of Pennsylvania's Act 125 and its effect on the quality of education in the state. Robinson's implications are discussed.

26. MARTELL, JAMES A., School Finance Reform: Robinson v. Cahill, 13 URB. L. ANN. 139 (1977).

The note is an examination of the protracted litigation in Robinson v. Cahill. The significance of the court finding the Bateman Act unconstitutional by using the thorough and efficient clause is that the legislature was not compelled to increase aid to property-poor districts if they are already providing a "sufficient" education. The note attempts to present the possible problems to be faced by the California courts and legislators in implementing a new school finance system.

27. NOTE, Constitutional Law--Equal Protection--Unequal Financing of Public Schools Through the Use of Local Property Taxes Is Not a Violation of the Equal Protection Clause of the Fourteenth Amendment, 23 EMORY L. J. 211 (1974).

A case note examining Rodriguez. Robinson is noted throughout as a successful challenge made against a state educational financing system. New Jersey could develop a more stringent rule of equality.

28. NOTE, Constitutional Law: Equal Quality in Educational Opportunities--The Necessary Revolution, 40 UMKC L. REV. 185 (1971-72).

A case note examining Serrano v. Priest but citing Robinson (lower court decision) for the type of interim relief which may be given in other jurisdictions.

29. NOTE, Constitutional Law--Validity of the Local Property Tax for Financing Education, 12 DUQ. L. REV. 989 (1974).

A case note examining Robinson v. Cahill.

30. NOTE, Robinson v. Cahill: A Case Study in Judicial Self-Legitimization, 8 RUT.-CAM. L. J. 508 (1977).

The note reviews recognized jurisprudential theories of constitutional adjudication and concludes that the N.J. Supreme Court overstepped the boundaries of the judicial function in a free society. The case is analyzed in the light of Professor G. Edward Uliete's model for judicial decision-making.

31. O'BRIEN, JERROLD P., Serrano v. Priest and the Central City: A Case for Equity? 37 ALB. L. REV. 442 (1973).

The article examines the educational finance equal protection cases and attempts to place them in social and fiscal context. Comparisons are drawn between suburban and city school systems. Robinson v. Cahill is distinguished as a case in which the need of minorities in the central cities is given consideration.

33. PORTER, MARY C., Rodriguez, the "Poor" and the Burger Court: A Prudent Prognosis, 29 BAYLOR L. REV. 199 (1977).

The article discusses the context in which Rodriguez was decided and the possibility of it being modified by the Burger Court. Robinson v. Cahill is noted as an example where a state legislature needed judicial prodding to get action and where a court made a cost/quality determination.

34. POST, A. ALAN AND RICHARD W. BRANDSMA, The Legislature's Response to Serrano v. Priest, 4 PAC. L. J. 28 (1973).

The article examines the school finance problem in California in the context of the court's guidelines and analyzes options open to the state legislature. Robinson v. Cahill (lower court decision) is cited for failing to specify any alternative system to the legislature for financing education.

35. RUVOLDT, HAROLD J., JR., Educational Financing in New Jersey: Robinson v. Cahill and Beyond, 5 SETON HALL L. REV. 1 (1973).

A discussion of Robinson v. Cahill from the point of view of plaintiff's counsel. The trial strategy and the equal protection issue is discussed. It is concluded that it is still capable of being challenged in federal court if it can be found that some children within a state were not receiving an "adequate" education. Suggestions for legislative reform which include

full state funding, power equalization and/or a combination of the two approaches. The Sears Commission's recommendations are criticized for not meeting the requirements of Robinson.

36. SILARD, J. AND B. GOLDSTEIN, Toward Abolition of Local Funding in Public Education, 3 J. L. & EDUC. 307 (1974).

The article maintains that state-forum reform efforts will not adequately resolve the school finance problem in the industrialized northern states. Local funding of public education should be abandoned citing the undesirable consequences of local education funding. Robinson v. Cahill is significant as a grant of equalization relief under the New Jersey Constitution. Robinson makes "equal educational opportunity" rather than taxpayer equity the central thrust of the state's "thorough and efficient" provision. It is concluded that Robinson opens more promising avenues for reform than did Serrano, but the future of school finance reform in the courts remains uncertain.

37. TRACTENBERG, PAUL L., Reforming School Finance Through State Constitutions: Robinson v. Cahill Points the Way, 27 RUTGERS L. REV. 365 (1974).

An exhaustive study of the Robinson v. Cahill litigation. The factual background, legal arguments and implications are presented. The court's constitutional guidelines to the legislature are examined as are alternatives to the Bateman Act. The implications of Robinson for reform in other areas besides school finance is also discussed.

38. TRACTENBERG, PAUL L., Robinson v. Cahill: The 'Thorough and Efficient' Clause, Symposium: Future Directions for School Finance Reform, 38 LAW & CONTEMP PROB. 312-332 (1974).

The importance and implications of Robinson are discussed and analyzed.

39. YUDOF, MARK G., Equal Educational Opportunity and the Courts, 51 TEX. L. REV. 411 (1975).

The article discusses the role of the judiciary in providing equal educational opportunity. Segregation and financing of schools are examined in the light of later decisions on these issues. Robinson (lower court) is cited as focusing on interdistrict rather than intra-district inequalities.

II. ROBINSON V. CAHILL IS CITED AS AN EXAMPLE OF A STATE COURT RELYING ON SPECIFIC STATE CONSTITUTIONAL PROVISION TO STRIKE DOWN A PROPERTY-TAX BASED FINANCE SYSTEM.

1. AREEN, JUDITH AND LEONARD ROSS, Rodriguez Case: Judicial Oversight of School Finance, 1973 SUP. CT. REV. 33 (1973).

The article discusses why the Supreme Court of the United States decided not to interfere with state school financing systems. The authors make arguments for judicial intervention but not judicial specification of the ultimate result.

2. ANDERSON, WILLIAM R., School Finance in Washington--The Northshore Litigation and Beyond, 50 WASH. L. REV. 853 (1975).

A discussion of the Northshore litigation and compilation of data intended to contribute to a better comprehension of Washington's problems.

3. BERKE, JOEL S. AND JOHN J. CALLAHAN, Serrano v. Priest: Milestone or Millstone for School Finance, 21 J. PUB. L. 23 (1972).

The article discusses the context from which the school finance cases have developed. It discusses existing defects in public education finance systems, and describes the gap between fiscal and legal perspectives of the problem. It suggests considerations that should be accounted for in the school finance area.

4. COMMENT, Analysis and Review of School Financing Reform, 44 FORDHAM L. REV. 773 (1976).

   The comment is a general overview of school finance reform. It briefly discusses the various standards used to guage equal educational opportunity and the major financing systems in existence. It reviews various attempts for reform through the courts and makes recommendations for new avenues of reform in light of Rodriguez. Robinson v. Cahill is considered a viable alternative to an equal protection attack by using a state education clause.

5. COMMENT, Dividing the Pie More Evenly: Post-Rodriguez Judicial and Legislative Alternatives to School Financing in Illinois, 6 LOY. CHI. L. J. (Chicago) 110 (1975).

   The comment discusses judicial and legislative alternatives for Illinois school financing. Robinson v. Cahill provides a possible method for attacking the Illinois system. Remedial action considered is: full state funding; modification of the foundation program; district power equalizing; and the resource equalizer.

6. GLICKSTEIN, HOWARD, Equal Educational Opportunity: The State of the Law, 20 HOW. L. J. 100 (1977).

   A discussion of inequities of school financing based on real property tax revenues. Robinson v. Cahill is an alternative to federal litigation.

7. LIEBMANN, GEORGE W., Local Discretion and Common Sense Affirmed, Symposium on San Antonio School District v. Rodriguez, 2 J. L. & EDUC. 461 at 463 (1973).

   The article supports the Rodriguez decision. Robinson v. Cahill was decided under a provision of a state constitution which is "uniquely restrictive."

8. MANLEY, R. E., Legal Aspects of Financing Education, 6 URB. LAW. 337 (1974).

A survey article regarding financing of education. Robinson v. Cahill is criticized for challenging the source of revenue rather than the utilization of revenue. Robinson is considered a viable alternative to Rodriguez.

9. MORRIS, A. A. AND M. E. ANDREWS, Ample Provision for Washington's Common Schools: Northshore's Constitutional Promises to Keep, 10 GONZ. L. REV. 19 (1974).

An exhaustive study of Northshore School District v. Kinnear Litigation. Robinson v. Cahill was not considered controlling precedent.

10. NOTE, San Antonio School District v. Rodriguez: A Study of Alternatives Open to State Courts, 8 U.S.F. L. REV. 90 (1973).

The article considers the issue of education as a fundamental right on the state level. It discusses references made to education and equal protection in state constitutions and the possible effect they may have on educational finance cases. Robinson v. Cahill could have an impact on 26 states with similar provisions in their constitution.

11. NOTE, San Antonio Independent School District v. Rodriguez: The Court Places Limits on the New Equal Protection, 6 COLUM. HUMAN RIGHTS L. REV. 195 (1974).

A case note discussing Rodriguez decision.

12. PORRAS, D. DANIEL, The Rodriguez Case--A Crossroad in Public School Financing, 26 TAX LAW. 141 (1972).

The article discusses Rodriguez on district court level and its possible economic effects.

13. RICHARDS, DAVID A. J., Equal Opportunity and School Financing: Towards a Moral Theory of Constitutional Adjudication, 41 U. CHI. L. REV. 32 (1973).

The article asserts that there is a moral theory embodied in adjudications under the equal protection clause.

14. SIMON, LARRY G., The School Finance Decisions: Collective Bargaining and Future Finance Systems, 82 YALE L. J. 409 (1973).

    The article examines which of the school finance systems is legally permissible and which are politically likely.

III. ROBINSON V. CAHILL IS CITED AS A STATE COURT DECISION WHICH HAS FOLLOWED THE SERRANO EQUAL PROTECTION ARGUMENT.

1. BILLINGS, C. DAVID AND JOHN B. LEGLER, Empirical Evidence of Economies of Scale in Education as a Justification of Differentials in Expenditures Per Student, 2 J. L. & EDUC. 667 (1973).

    The study asserts that educational services are produced under economies of scale conditions.

2. CARRINGTON, PAUL D., Financing the American Dream: Equality and School Taxes, 73 COLUM. L. REV. 1227 (1973).

    The article discusses the "no-wealth" principle that states may, consistent with the requirements of equal protection, use any means of raising public revenue and any formula for the distribution of public revenue, provided that the distribution is not keyed to the wealth of the district in which the children live.

3. BROWN, RONALD C., School Financing in Legal and Nonlegal Perspective, 15 WM. & MARY L. REV. 739 (1974).

    A book review of Reforming School Finance by Reischauer and Hartman, (1973). The book discusses the problem of how to pay for education and the desirable and undesirable aspects of present systems of financing are placed in economic, social and political perspective.

4. COMMENT, Equal Protection and School Finance, 26 ARK. L. REV. 508 (1973).

    The implications of Serrano for Arkansas.

5. COMMENT, Equalization of Municipal Services: The Economies of Serrano and Shaw, 82 YALE L. J. 89 (1972).

   The comment analyzes the probable economic impact on municipal services because of judicial intervention in financing of public education.

6. COMMENT, Financing Public Education: Recent Developments and the Outlook for Nebraska, 52 NEB. L. REV. 77 (1972).

   The comment examines Nebraska's vulnerability to constitutional attack in light of recent decisions.

7. COMMENT, Reform in Financing Public Education: An Examination of the Movement and Its Implications, 47 TUL. L. REV. 117 (1972).

   The comment discusses the implications of most recent decisions.

8. COMMENT, Right to Equal Educational Opportunity: Serrano and Its Progeny, 2 N.Y.U. REV. L. & SOC. CHANGE 44 (1972).

   The comment examines the potential impact of Serrano on educational administration and finance.

9. COMMENT, The Expanding Scope of Equal Protection Review: The Case for Reform of Educational Financing in Utah, 1972 UTAH L. REV. 228 (1972).

   The comment discusses the Serrano rationale and its possible use in Utah.

10. COONS, JOHN E., Fairness in the Distribution of Education, Symposium--Serrano: Public School Finance. 1972 U. ILL. L. F. 212 at 219 (1972).

    The article discusses the failure of Serrano-type cases in meeting the special needs of urban and rural schools.

11. FLAHERTY, JAMES T., Serrano: Its Progeny and Its Prophecy, 21 CLEV. ST. L. REV. 104 (1973).

    The article analyzes Serrano and the lower court decision in Robinson v. Cahill.

12. GARD, S. W., San Antonio School District v. Rodriguez: On Our Way to Where? 8 VAL. U. L. REV. 1 (1973).

    The article examines Rodriguez and emphasizes the quality of education rather than equality.

13. GOLDSTEIN, STEPHEN R., Interdistrict Inequalities in School Financing: A Critical Analysis of Serrano v. Priest and Its Progeny, 120 U. PA. L. REV. 504 (1972).

    The article discusses the practical effects of Serrano.

14. GRUBB, W. NORTON AND STEPHAN MICHELSON, Public School Finance in a Post-Serrano World, 8 HARV. CIV. RIGHTS L. REV. 550 (1973).

    The article is a critique of a Yale Law Journal Note which influenced the Rodriguez decision. The article concludes that the principles behind school finance litigation would move the nation toward greater equity.

15. LIPSON, DAVID R., Serrano v. Priest, I and II: The Continuing Role of the California Supreme Court in Deciding Questions Arising Under the California Constitution, 10 U.S.F. L. REV. 697 (1976).

    The article discusses the California Supreme Court's continuing power to resolve Serrano'a constitutional claims, and in what manner.

16. NAJAM, EDWARD W., JR., Public School Finance in Indiana: A Critique, 48 IND. L. J. 70 (1972).

    An analysis of public school financing in Indiana and whether it meets the standards set forth in Serrano.

17. NOTE, Constitutional Law--Equal Protection--California School Financing System Which Discriminates Against Students in Poorer School Districts Held to be in Violation of Equal Protection Clause--Serrano v. Priest, 60 GEO. L. J. 799 (1972).

    An analysis of the Serrano decision.

18. NOTE, Constitutional Law--Equal Protection--Michigan Public School Finance Formula Held Invalid as a Denial of Equal Protection--Milliken v. Green, 6 IND. L. REV. 789 (1973).

    An analysis of the Milliken decision.

19. NOTE, Constitutional Law--Equal Protection--School Financing System Based on Local Property Taxes Which Results in Inequalities of Spending by School Districts Violates the Equal Protection Clause--Serrano v. Priest, 85 HARV. L. REV. 1049 (1972).

An analysis of the Serrano decision.

20. NOTE, Constitutional Law--Equal Protection--Supporting Public Schools in a Manner So That the Dollar Amount Spent Per Student Is Substantially a Function of the Community's Wealth Violates the Fourteenth Amendment--Serrano v. Priest, 1971 U. ILL. L. F. 524 (1971).

    An analysis of the Serrano decision.

21. NOTE, Constitutional Law--Public Education Financed Partially Through Local Property Taxes is not Proper Subject for Strict Judicial Scrutiny, 18 HOW. L. J. 435 (1974).

    An analysis of the Rodriguez decision.

22. NOTE, Constitutional Law--Statutory Provision Allowing Public Schools to be Financed Primarily by Local Property Taxes is Unconstitutional Denial of Equal Protection of the Laws, 24 S. C. L. REV. 464 (1972).

    An analysis of the Serrano decision.

23. NOTE, Constitutional Law--The Quality of a Child's Education in California's Public Schools May Not be a Function of His School District's Wealth--Serrano v. Priest, 23 SYRACUSE L. REV. 162 (1972).

    An analysis of the Serrano decision.

24. NOTE, San Antonio School District v. Rodriguez: A Retreat from Equal Protection, 22 CLEV. ST. L. REV. 585 (1973).

    An analysis of the Rodriguez decision.

25. NOTE, San Antonio School District v. Rodriguez: Local School Taxation Not a Denial of Equal Protection? 9 NEW ENGLAND L. REV. 574 (1974).

    An analysis of the Rodriguez decision.

26. O'CONNELL, JEFFREY, Equal Protection V. Unequal Schools? Symposium--Serrano: Public School Finance, 1972 U. ILL. L. F. 212 (1972).

    Introduction to Symposium article.

IV. ROBINSON V. CAHILL IS CITED AS AN EXAMPLE OF JUDICIAL ACTION GENERATING REFORM ON THE STATE LEVEL AFTER RULING THAT THE EXISTING SCHOOL FINANCE PLANS VIOLATED STATE CONSTITUTIONAL RIGHTS.

1. BILLINGS, C. DAVID AND JOHN B. LEGLER, Factors Affecting Educational Opportunity and Their Implications for School Finance Reform: An Empirical Study, 4 J. L. & EDUC. 633 (1975).

This article investigates the influence of expenditure and integration on student achievement.

2. CITIZENS UNION COMMITTEE ON EDUCATION FINANCE, Financing Public Education in New York State: An Analysis of the Fleischmann Commission Report, 48 N.Y.U. L. REV. 1 (1973).

The report analyzes many aspects of the Commission's financing proposals.

3. COMMENT, State Constitutional Restrictions on School Finance Reform: Buse v. Smith, 90 HARV. L. REV. 1528 (1977).

Analysis of Buse v. Smith.

4. COOPER, JOSEPH H., Dollars and Sense of Public Education, 6 URB. LAW. 138 (1974).

The article examines the scope of a state's financial obligations in the area of education, and methods for achieving educational equality.

5. FOELER, WILLIAM H., Differential Tax Incidence of State Educational Grant-In-Aid Programs in Iowa, 27 NAT'L TAX J. 9 (1974).

The study projects estimates of changes in state tax patterns resulting from the implementation of a modified foundation grant and a percentage equalizing grant in Iowa. The results show increased progressivity of the state tax structure under both types of grants.

6. GELDON, FRED M., Sensuous Market: An Analysis of School Finance and Exclusionary Zoning, 51 J. URB. L. 343 (1974).

The article examines the impact the market system can have on school finance and exclusionary zoning.

7. McCARTHY, M., Is the Equal Protection Clause Still a Viable Tool for Effecting Educational Reform? 6 J. L. & EDUC. 159 (1977).

The article discusses the role of equal protection in areas of educational finance, desegregation, and school classification practices.

8. SILLARD, JOHN, School Finance Equalization: The Beat Goes On, Symposium on San Antonio School District v. Rodriguez, 2 J. L. & EDUC. 461 at 467 (1973).

   The article identifies four standards by which to remedy an inadequate educational system.

9. TREACY, J. J. AND L. W. FRUEH, Power Equalization and the Reform of Public School Finance, 27 NAT'L TAX J. 285 (1974).

   Pressures for reform and some responses are discussed briefly. The rationale and origins of power equalization approaches are explored and advantages and shortcomings are examined.

10. ZELINSKY, EDWARD, Educational Equalization and Suburban Sprawl: Subsidizing the Suburbs Through School Finance Reform, 71 NW. U. L. REV. 161 (1976).

    The article is an empirical examination of the impact of various equalization formulas and their effects upon relative tax burdens.

PART IV

DIAGRAMS*

* Diagrams I and II are designed to simply sketch the complexity of the four year Robinson litigation. Diagram I is a flow chart which displays the sequence in which the various issues were raised as well as the parties involved in each of the six decisions. From this diagram, one can see how the government's defense became fragmented, especially in January, 1975 following the Robinson III decision. Diagram II is a matrix which relates particular positions taken on the various issues with specific parties. The parties are listed vertically while the issues are arranged horizontally. The legend which identifies each issue is contained on page 77. From this diagram, one can identify parties which offered similar positions.

DIAGRAM 1

FLOW CHART OF ISSUES RAISED IN ROBINSON V. CAHILL DECISION

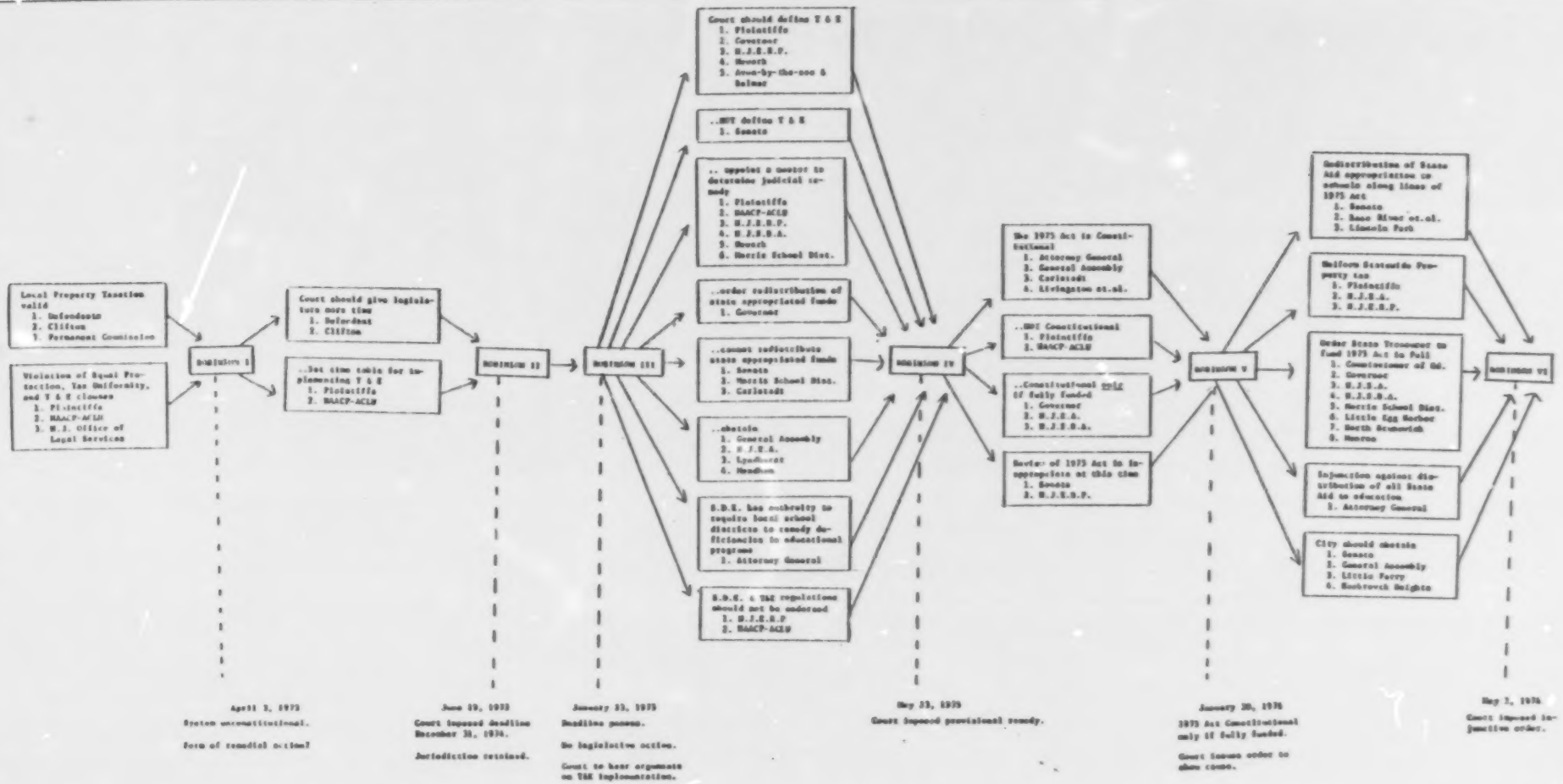

DIAGRAM II **

MATRIX OF ISSUES RAISED IN ROBINSON V. CAHILL DECISIONS

PARTIES FILING BRIEFS	ROBINSON I		ROBINSON II		ROBINSON IV								ROBINSON V				ROBINSON VI				
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
A. Plaintiffs		X		X	X		X+							X							
B. Defendants	*X		*X										X							X	
Attorney General										X			X								
Governor					X			X							X				X		
Senate						X			X							X	X				X
General Assembly												X	X								X
Commissioner of Education																			X		
C. Amici Curiae																					
City of Clifton	X		X																		
NAACP-ACLU		X		X			X				X			X							
N.J. State Office of Legal Service		X																			
Permanent Commission	X																				
N.J.E.R.P.					X		X				X					X		X			
City of Newark					X		X														
Avon-by-the-Sea and Belmar					X																
N.J.S.B.A.							X								X				X		
Morris School District							X		X										X		
Carlstadt									X				X								
N.J.E.A.												X			X			X	X		
Lyndhurst Bd. of Ed.												X									
Mendham Bd. of Ed.												X									
Livingston, et. al.													X								
Bass River et. al.																	X				
Lincoln Park Bd. of Ed.																	X				
Little Egg Harbor Board of Education																			X		
North Brunswick Bd. of Ed.																			X		
Monroe Bd. of Ed.																			X		
Little Ferry Bd. of Ed.																					X
Hasbrouck Hts. Bd. of Ed.																					X

* Defendants presented a unified position in Robinson I and II

\+ Note that a party would often present alternative legal arguments

** Legend is on page 77

LEGEND

1. Local property taxation valid
   1. defendants 2. Clifton 3. permanent commission

2. Violation of Equal Protection, tax uniformity, and T & E clauses
   1. Plaintiffs 2. NACCP-ACLU 3. N.J. Office of Legal Services

3. Court should give legislature more time
   1. plaintiffs 2. NAACP-ACLU

4. ..Set time table for implementing T & E
   1. plaintiffs 2. NAACP-ACLU

5. Court should define T & E
   1. plaintiffs 2. Governor 3. N.J.E.R.P. 4. Newark 5. Avon-by-the-Sea and Belmar

6. ..NOT define T & E
   1. Senate

7. ..appoint a master to determine judicial remedy
   1. plaintiffs 2. NAACP-ACLU 3. N.J.E.R.P. 4. N.J.S.B.A. 5. Newark 6. Morris School Dist.

8. .. order redistribution of state appriated funds
   1. Govenor

9. ..cannot redistribute state appropriate funds
   1. Senate 2. Morris School Dist. 3. Carlstadt

10. .. abstain
    1. General Assembly 2. N.J.E.A. 3. Lyndhurst 4. Mandham

11. S.D. E. has authority to require local school districts to remedy deficiencies in educational programs
    .. Attorney General

12. S.D.E. and T & E regulations should not be endorsed
    1. N.J.E.R.P.

13. The 1975 Act is Constitutional
    1. Attorney General 2. General Assembly 3. Carlstadt 4. Livingston et. al.

14. ..NOT Constitutional
    1. plaintiffs 2. NAACP-ACLU

15. ..Constitutional only if fully funded
    1. Governor 2. N.J.E.A. 3. N.J.S.B.A.

16. Review of 1975 Act is inappropriate at this time
    1. Senate 2. N.J.E.R.P.

17. Redistribution of State Aid appropriation to schools along lines of 1975 Act
    1. Senate 2. Bass River et.al. 3. Lincoln Park

18. Uniform statewide property tax
    1. plaintiffs 2. N.J.E.A. 3. N.J.E.R.P.

19. Order State Treasurer to fund 1975 Act in full
    1. Commissioner of Ed. 2. Governor 3. N.J.S.A. 4. N.J.S.B.A. 5. Morris School Dist.
    6. Little Egg Harbor 7. North Brunswick 8. Monroe

20. Injunction against distribution of all State Aid to education
    1. Attorney General

21. City should abstain
    1. Senate 2. General Assembly 3. Little Ferry 3. Hasbrouck Heights